



POLICE DEPARTMENT

-----X
 In the Matter of the Disciplinary Proceedings :
 - against - : FINAL
 Police Officer Amar Bhairam : ORDER
 Tax Registry No. 948668 : OF
 90 Precinct : DISMISSAL
 -----X

Police Officer Amar Bhairam, Tax Registry No. 948668, having been served with written notice, has been tried on written Charges and Specifications numbered 2022-27063 as set forth on form P.D. 468-121, dated September 14, 2022 (amended on April 17, 2023 and November 3, 2023), and after a review of the entire record, Respondent is found Guilty of Specification 1, and in accordance with his plea, Guilty of Specifications 2, 3, 4, and 5.

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 Amar Bhairam from the Police Service of the City of New York.

EDWARD A. CABAN
POLICE COMMISSIONER

EFFECTIVE: 11/23/24

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POLICE DEPARTMENT

December 22, 2023

-----X
In the Matter of the Charges and Specifications :
- against - :
Police Officer Amar Bhairam :
Tax Registry No. 948668 :
90 Precinct :
-----X

Case No.
2022-27063

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

Before: Honorable Anne E. Stone
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Penny Bluford-Garrett, Esq.
Department Advocate's Office
One Police Plaza
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

1. Probationary Sergeant Amar Bhairam, while assigned to the 112 and/or the 10 Precinct, on or about and between January 14, 2022 and February 1, 2022, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said officer intentionally caused false entries to be made in Department records when he reported false and unfounded 311 allegations against a Member of Service known to the Department. *(As amended)*.

N.Y. Penal Law § 175.05(1)

FALSIFYING BUSINESS
RECORDS IN THE SECOND
DEGREE

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

PROHIBITED CONDUCT

2. Probationary Sergeant Amar Bhairam, while assigned to the 112 and/or the 10 Precinct, on or about and between December 3, 2020 and May 12, 2022, conducted approximately 500 inquiries in the Department computer system unrelated to the official business of the Department. *(As amended)*.

P.G. 219-14, Page 1, Paragraph 2

DEPARTMENT COMPUTER
SYSTEMS

3. Probationary Sergeant Amar Bhairam, while assigned to the 112 and/or the 10 Precinct, on or about and between December 3, 2020 and May 12, 2022, divulged information obtained from the Department computer system unrelated to a valid law enforcement purpose and without authority or permission. *(As amended)*.

P.G. 219-14, Page 1, Paragraph 3

DEPARTMENT COMPUTER
SYSTEMS

A.G. 304-15, Page 1, Paragraph 3

DEPARTMENT
CONFIDENTIALITY POLICY

4. Probationary Sergeant Amar Bhairam, while assigned to the 112 Precinct and/or the 10 Precinct, on or about and between January 14, 2022 and February 1, 2022, engaged in conduct prejudicial to the good order and efficiency of the Department, to wit: said Probationary Sergeant wrongfully reported complaints containing discourteous or disrespectful remarks related to ethnicity, race, religion, gender, gender identity/expression, sexual orientation, and/or disability on the 311 system. *(As amended)*.

A.G. 304-06, Page 1, Paragraphs 1 and 2

PROHIBITED CONDUCT

5. Probationary Sergeant Amar Bhairam, while assigned to the 112 and/or the 10 Precinct, on or about and between December 3, 2020 and May 12, 2022, conduct unofficial

Department inquiries and reported false 311 claims while on duty, which conflicted with his ability to perform his regular police duties. (*As amended*).

A.G. 304-05, Page 1, Paragraph 1

PERFORMANCE ON DUTY

P.G. 203-05, Page 1, Paragraph 1

PERFORMANCE ON DUTY

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on November 3, 2023. Respondent, through his counsel, entered a plea of Not Guilty to Specification 1, and pled Guilty to the remaining four charges Specifications 2 through 5. The Department called Sergeant Patrick Collins as a witness, and Respondent testified on his own behalf. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having evaluated all of the evidence in this matter, the Tribunal finds Respondent Guilty of Specification 1, as discussed below, and in accordance with his plea, Guilty of Specifications 2 through 5, and recommends that he be dismissed from the Department.

FACTUAL AND PROCEDURAL BACKGROUND

This case arose out of an IAB investigation that commenced after a series of anonymous 311 complainants were made over a two week period in early 2022 regarding Lieutenant Marlene Hernandez, the 10 Precinct Platoon Commander. The complaints were made via the 311 application which allows individuals to submit complaints in a manner similar to a text message. After an investigation, it was determined these complaints were written and submitted by Respondent. He admitted to doing so in his official Department interview, as well as at trial. The contents of these multiple complaints are as follows¹:

¹ Grammatical and spelling errors have not been corrected.

- January 14, 2022- “I came to precinct other day and this female in white shirt who look like a tranny with fillers was giving me attitude about my property. She told me pull up my pants why u looking at my dick bitchhh. I feel bad for the cops that gotta deal with her nasty attitude. Get rid of that bitch.” (Dept. Ex 1)
- January 19, 2022- “Hello I’m not one to complain but this needs to be corrected unfortunately I had had to go to the 10 pct the other day to file a report for my stolen cell phone but the more troubling issue is the way I was addressed by a transgender officer wearing a white uniform that was sitting behind the high pharmacy like counter- this man lady was extremely rude to my needs and I assume that to be because my mask kept falling off of my nose which happens due to a sinus issue I have where my sinuses enlarge...slowly then immediately shrink my issue is that I am extremely tolerant of people like like him that desire to be women but at least they can reciprocate the Respect to people like myself that also have some sort of medical condition -please send this officer Hernandez to training on sensitivity and respect also remind him/her that there are other medical issues out there besides mental illness.” (Dept. Exs. 2 & 3)
- January 19, 2022- “Hi please send a ambulance to the 10 pct for a crazy guy dressed as a cop but wearing a white police shirt-if this guy isn't at the police station then he should be at 21 street and 8 Ave ... this guy thinks he looks like a pretty lady,” (Dept. Ex. 4)
- January 27, 2022- “Can you get rid of the tranny looking mean lady with white shirt inside precinct she is very rude and nasty” (Dept. Ex. 5)
- February 1, 2022²- “I’m a resident of Chelsea who ls this nasty Hernandez lady I had interaction with outside. I feel for the cops of 10th. She is a nasty woman poor NYPD no wonder morale is low.” (Dept. Ex. 6)
- February 1, 2022- “Please tell Lt Hernandez to shut her mouth as she is melting all the snow in front of my apartment but all the water is rushing into my basement causing a flood. All the cops hate her does she know this get her out please mayor Adams.” (Dept. Ex. 7)
- February 1, 2022- “Please tell tranny looking lady in white shirt put her mask on she's scaring my dogs as I walk by precinct. She is rude told me I can't be walking around precinct to much.” (Dept. Ex. 8)
- February 1, 2022- “Mayor Adams please remove the tranny nasty Spanish lady with white shirt she is very rude and has no courtesy and respect for the public or the cops.” (Dept. Ex. 9)

A complaint for Aggravated Harassment was filed and Sergeant Patrick Collins, then a detective assigned to the 10 Precinct Detective Squad, was assigned to investigate. (Tr. 47)

Sergeant Collins initially reached out to DoITT NYC, the agency that oversees the 311 system,

² The four February 1, 2022 complaints were made separately with at least one hour between them.

to try and ascertain the information of the person who initiated the complaints. Ultimately, a subpoena was served on Verizon by the Deputy Commissioner of Legal Matters, and the customer was identified as Bibi Bhairam. Sergeant Collins explained that the “last name associated with the customer was known to be a member of the service.” At that point, the matter was referred to IAB. (Tr. 48-56, Dept. Exs. 9-11)

As part of the IAB investigation, an audit of Respondent’s Department computer usage was conducted. It revealed that on approximately 500 occasions between December 3, 2020, and May 12, 2022, Respondent made unauthorized inquiries, including checking license plates and arrest histories, using Department computers and databases. During his official interview, Respondent acknowledged that he initiated the 311 complaints against Lieutenant Hernandez while on duty and using his personal phone. He also conceded that he made the unauthorized computer inquiries. (Tr. 31-32, 92, 98)

Consistent with those admissions, Respondent, when appearing before this tribunal, pled guilty to (i) wrongfully making complaints containing discourteous or disrespectful remarks on the 311 system, (ii) making approximately 500 unauthorized computer inquiries, (iii) divulging information learned from those queries, and (iv) making both the complaints and conducting the computer searches while on duty, thereby conflicting with his ability to perform his regular police duties.

With regard to the misuse of Department computer databases, Respondent admitted making the inquiries on behalf of family members, friends, and himself, with regard to former and current romantic partners. When questioned further, Respondent repeatedly averred that he conducted the computer searches to “help” family members and friends in keeping with his Guyanese culture. Respondent went on to admit that he conducted queries on ex-girlfriends’ cars

and checked arrest histories of romantic partners several times. (Tr. 135-37) He ran license plates of family and friends, to check for outstanding summonses, or to see if their driving privileges were suspended. Respondent conceded that he disclosed information obtained from the unauthorized computer searches to family and friends because he wanted to help them. (Tr. 143-44). Respondent acknowledged that on 158 occasions he ran license plate reader searches in the Department's Domain Awareness System ("DAS") for vehicles driven by his cousin. His explanation was that his aunt repeatedly asked him to ascertain the location of her adult daughter's car, because she had concerns about the man her daughter was dating. (Tr. 95-96)

ANALYSIS

The sole contested specification in this case is Specification 1, which charges Respondent with conduct prejudicial to the good order, efficiency and discipline of the Department in that he "intentionally caused false entries to be made in Department records when he reported false and unfounded 311 allegations against [Lieutenant Hernandez.]" This charges mirrors the elements of Penal Law Section 175.05(1), Falsifying Business Records in the Second Degree, a Class A misdemeanor. Respondent's counsel characterized his position as a "legal issue not a factual issue;" Respondent does not dispute making the complaints about Lieutenant Hernandez which contained falsities. He does contend, however, that when doing so he lacked an intent to defraud, a required element of the Penal Law crime. (Tr. 11-12, 56)

Respondent testified that in early 2022, while he was on the sergeant's list, Lieutenant Hernandez became his supervisor. He asserted that before her arrival he had a reputation within the command for strong performance and was considered "one of the best" officers. (Tr. 74) He contended that Lieutenant Hernandez created an environment where "a lot of cops weren't happy" due to her "negative" supervisory style which included the issuance of what, in his

opinion, were unnecessary command disciplines. Respondent explained further, “A lot of cops didn't feel that it was right, especially that we had a good lieutenant before that, you know, if there was an issue, he would address it to you, there was never anything on paper...” (Tr. 74-75).

Respondent stated that he took issue with the lieutenant when she made an inappropriate comment about his skin condition, vitiligo. He recounted that she joked about the white spots on his face, asking him if he had “Michael Jackson disease.” He testified that he did not respond to her, because his medical condition was “very personal,” but expressed that the interaction made him want to cry. On another occasion, Respondent testified that Lieutenant Hernandez told him to issue a motorist a summons because they did not possess the required physical documentation. However, the individual had shown Respondent photographs of the documents on his phone³. When Respondent refused to issue the summons, his relationship with Lieutenant Hernandez began to sour. He described another interaction when he arrived at work late. After explaining to the lieutenant that the reason for his tardiness, his grandmother was hospitalized in the ICU, he recalled that she responded “we all have problems.” (Tr. 74-80) When asked why he failed to make official reports about these incidents, he testified that his union delegate advised him not to due to the lieutenant’s close relationship with the Commanding Officer of the precinct. Respondent went on to state that other supervisors told him to “keep low” and avoid any issues. He expressed that he had hoped that his promotion would happen quickly, after which he would be transferred. (Tr. 82-83)

Frustrated with the situation and upset when other officers told him that they had overheard the lieutenant “making fun of [him] behind [his] back,” he took to the 311 system to

³ “Although the operation of a motor vehicle without a license constitutes an offense (VTL § 509), the failure to produce one upon demand of a police officer merely creates a rebuttable presumption that the driver is not duly licensed” *People v. President*, 59 Misc. 3d 134 (N.Y. App. Term 2018)

express that “frustration”, something he claimed to have witnessed other officers doing to vent about a supervisor. Respondent admitted in hindsight, “It was stupid - - like I was just frustrated with what was going on personally, my grandma was in the ICU and died a week later after that, you know, with her - - just the whole skin condition, officers telling me they heard her. . . .”

When asked why he used derogatory terms like “tranny” or “bitch,” he offered, “I was just--what I was going through at the moment and the frustration and anger and other cops that were having issues with her. I did it to be funny, it wasn’t intentional.” He confirmed that he did not actually believe the lieutenant to be transgender. (Tr. 84-86) Respondent offered a similar rationale for the descriptions of the lieutenant contained in subsequent complaints, stating he did it “just to be funny, that all the other cops were calling her [that] at the Precinct” and that he heard other officers talking about the complaints and finding them humorous. (Tr. 87-89)

On direct examination, Respondent was questioned regarding whether he believed he was making official police department reports when utilizing the 311 application; he replied, “No because it’s not NYPD owned.” Respondent testified that he was not attempting to perpetrate a fraud, nor was he attempting to get away with criminal activities. (Tr. 90-91) Respondent repeatedly maintained throughout his testimony that he submitted the complaints as a “joke.” On cross examination, Respondent testified that he submitted the first 311 complaint after a prisoner came to the precinct to retrieve property. When asked if the 311 complaint was made on behalf of the prisoner, Respondent responded “No, I did it as a joke.” (Tr. 105-06) Respondent explained that he purposefully made the complaints at times when Lieutenant Hernandez was working at the Desk. He knew she would see them because she was tasked with assigning the 311 jobs. (Tr. 88, 108, 110)

When questioned about the other 311 complaints, Respondent admitted that most of the narrative content of the complaints was false. He was not a resident of Chelsea, he had not walked dogs by the command, he had not conversed with the lieutenant while walking by the precinct, and he did not believe or have any reason to believe that Lieutenant Hernandez was transgender. (Tr. 86, 122-23; Dept. Ex. 6)

Preliminarily, with regard to Specification 1, the tribunal notes that the Department charged Respondent with language mirroring the Penal Law Crime of Falsifying Business Records as well as the Administrative Guide prohibition on conduct prejudicial to the good order and discipline of the Department. The record before the tribunal does not support a finding that Respondent's filing of the 311 complaints rises to the level of a crime. While it is uncontested that the Respondent intentionally wrote and published the 311 complaints which contained falsities, the question of whether Respondent intended to defraud the Department by doing so was not proven. The Penal Law does not define "intent to defraud." However, an intent to defraud exists when the act is committed with the purpose of "leading another into error or to disadvantage." *People v. Briggins*, 50 N.Y.2d 302, 309 (1980) (concurring opinion) (Jones, J). New York State cases have found that while "intent to defraud" is often directed at gaining property or a pecuniary benefit, it need not be so limited. *See People v. Kase*, 76 A.D.2d 532 (1st Dept. 1980), *aff'd*, 53 N.Y.2d 989 (1981). In the instant matter, Respondent admits that he intended to humiliate Lieutenant Hernandez by making these 311 complaints, and indeed it appears he was likely attempting to make "allegations," which would be referred to IAB or CCRB. Whether this rises to the level of a Penal Law violation was not sufficiently established at trial.

However, in this case, the Department need not prove the elements of a crime to establish misconduct. It is sufficient to prove by a preponderance of the credible evidence that Respondent's actions were prejudicial to the good order, efficiency and discipline of the Department. (*See* A.G. 304-06) Here, Respondent has admitted to utilizing the City's 311 system to make a series of fictitious complaints containing derogatory slurs about a supervisor. This conduct is a clear violation of A.G. 304-06. Therefore, I find Respondent Guilty of the misconduct charged in Specification 1.

With regard to the computer searches, Respondent repeatedly attempted to explain away these searches by testifying that he made the inquiries simply to "help" family and friends, and to check on romantic partners. With regard to the 158 inquiries attempting to locate his cousin's vehicle, Respondent's explanation was that his aunt had lost another daughter, who was involved in an abusive relationship, to suicide. She was worried about her living daughter's boyfriend, who may not have been a "good guy." (Tr. 95-96) No evidence was brought forth that Respondent's surviving cousin was in any danger when he made any of these inquiries. Even if true, this would not excuse the behavior. The Department prohibits the use of its databases for personal reasons, in large part, to prevent this type of abuse. Respondent was, for all intents and purposes, conducting surveillance on his cousin while on duty, utilizing Department resources. When asked if Respondent had explained to his family the serious misconduct they were asking him to commit, he admitted that he had not done so until after he became aware of the IAB investigation. (Tr. 150)

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 July 6, 2010, has been found Guilty of specification 1, engaging in conduct prejudicial to the good order, efficiency, or discipline of the Department by making multiple baseless 311 complaints against his supervisor while on duty; and by his plea, Guilty of specifications 2 through 5 which involve discourteous and offensive comments within those 311 complaints and extensive, on duty, computer misuse.

The Department Advocate has recommended a penalty of termination, and in particular, with respect to Specification 1, the Department argues that filing of false 311 complaints diverted police resources from other tasks because each complaint had to be reviewed and investigated. I agree with the Department Advocate and, as discussed below, recommend that Respondent's employment with the NYPD be terminated.

Counsel for Respondent has argued for a penalty short of termination. He contends that the filing of the 311 complaints did not amount to a Penal Law violation as charged in Specification 1 because Respondent lacked the intent to defraud, as he wasn't looking to gain anything from his conduct. Rather, Respondent was "immature," "juvenile" in his actions, and filed the complaints as a "joke" to express his frustration at his supervisor. Moreover, counsel took the position that Respondent's filing of the 311 complaints does not fall squarely within the

Disciplinary Matrix and thus the tribunal should craft a penalty consistent with the severity of his conduct, taking into account that Respondent has taken responsibility for his misconduct.

Here, Respondent not only made multiple disparaging and offensive comments; he did so anonymously, utilizing the 311 non-emergency complaint system, while on duty. He admitted that his motivation was to vent frustration about his supervisor, and Respondent specifically chose to use the 311 application to ensure that not only the Lieutenant, but also many of his fellow officers, would see the comments. This misconduct is even more troubling in light of the Department's commitment to a discrimination-free work environment and express prohibition of the publication of discriminatory slurs via any electronic means. (Administrative Guide 332-02)

In addition to this serious misconduct, with galling frequency and casual disregard for Department policy, Respondent regularly queried Department computer databases for personal reasons. He obsessively monitored his cousin's location, ran criminal history checks on romantic partners, searched license plate numbers to ascertain if his friends and family members had summonses; he also divulged information obtained from law enforcement databases to people outside of the Department. This repeated misuse of confidential Department databases calls into question Respondent's judgment.

Counsel for Respondent contends that Respondent has taken responsibility for his "immature" actions. I disagree. Even while admitting to the charged misconduct, Respondent tried to minimize the seriousness of his behavior and attempted to justify it. In doing so, he continued to criticize Lieutenant Hernandez and her supervisory style while on the stand, essentially pointing to that as an excuse for his misconduct. Respondent's attempt to defend his use of derogatory slurs, by repeatedly calling their use a "joke" trivializes his conduct and is compelling evidence of the limited potential for his rehabilitation. Similarly, he also tried to

explain away his repeated abuse of the Department's computer databases by saying it was part of his culture to "help" family and friend. Again his testimony underscores his disregard of Department rules. Indeed, this lack of any real reflection or remorse have tarnished his reputation and compromised his integrity.

Respondent's reliance on two cases to support his argument that a penalty less than termination is warranted was unpersuasive. The misconduct in both of those cases was serious, and involved the use of derogatory language.⁴ However, neither case involved making numerous false complaints to the City's 311 system, that specifically targeted a supervisor and which were viewable by any member of the service with access to that system. Additionally, neither case involved the repeated violation of the Department's regulations regarding access to computer databases.

I considered the alleged personal circumstances which Respondent described without providing additional evidence – his allegation that his supervisor made fun of his medical condition, the loss of his grandmother, and Respondent's assertion that his aunt was concerned for his cousin's safety. Even if true, none of them mitigate Respondent's egregious and repeated violation of Department rules. In fact, his actions seriously call into question Respondent's ability to carry out his functions as a police officer. The Department must trust that members of service will not abuse the City's resources by making false reports about a supervisor they disagree with, and have confidence that employees who are given access to non-public, sensitive information, will not unilaterally decide to break the rules to assist family and friends hundreds of times. Respondent has betrayed that trust.

⁴ See *Disciplinary Case No. 2021-23353* (Nov. 29, 2022); *Disciplinary Case No. 2017-18079* (Jan. 25, 2019).

Respondent's continued employment with the Department is untenable. His conduct and attempts to downplay his responsibility illustrate a stunning lack of good judgment and have irretrievably compromised his ability to remain entrusted with the responsibilities of a member of service. Therefore, based upon the totality of the circumstances, the seriousness of the misconduct to which Respondent has admitted and the evidence submitted in this case, I recommend that the Respondent be DISMISSED from the New York City Police Department.

Respectfully submitted,



Anne E. Stone by Vanessa Facio-Lince
Assistant Deputy Commissioner Trials

APPROVED

NOV 23 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 AMAR BHAIRAM
TAX REGISTRY NO. 948668
DISCIPLINARY CASE NO. 2022-27063

Respondent was appointed to the Department on July 6, 2010. On his three most recent annual performance evaluations, he was rated “Exceeds Expectations” for 2019, 2020, and 2021.

In 2012, Respondent was suspended for thirty-one (31) days and placed on one-year dismissal probation after pleading guilty to failing to safeguard his service weapon when he handed it to an employee at a store, who in turn examined the weapon and pointed it in the direction of three other employees.

For your consideration.

Anne E. Stone by Vanessa Facioni
Assistant Deputy Commissioner Trials