

201605134
Mackenson Nelson

Officers stopped a man for drinking alcohol out of a plastic cup on a street corner in Brooklyn (the man claimed it was a Malta beverage). When he would not provide his identification willingly, he was taken in the precinct. In the precinct, he was handcuffed and asked to take off his shoes, belt and socks. He refused. In the cell, he was approached by Sgt. Mackenson Nelson.

Sergeant Nelson and other officers stated that the man had spit at them and feigned a punch. Sergeant Nelson testified at his CCRB interview that in response, he grabbed the man by his shoulders and turned him towards the wall. He testified that he did not punch the man. However, contemporaneous NYPD paperwork (a Treatment, Response and Injury Report), noted that the man had been punched, and stated that “The sergeant’s punch appeared to be in self-defense from a would-be punch from the prisoner.

After the prisoner was struck once, he was pushed against the wall and immediately handcuffed.” The sergeant, shown this paperwork, stated that he did not fill it out and did not inform anyone that he had punched the prisoner. Bleeding from the head, the man was transported by EMS to a hospital where he was diagnosed with a broken nose.

The CCRB substantiated allegations of excessive force against Sgt. Nelson and found that he made a false statement in the investigation when he contradicted the contemporaneous PD documentation.

The NYPD did not Punish Sgt. Nelson for the false statement and the CCRB allegations are listed as “false official statement” with no other information in a letter from the district attorney.

Previously, Sgt. Nelson was given Command Discipline B and A respectively for inaccurate or incomplete memobook entries in two incidents in February 2011 and December 2015.

Interview Details

INTERVIEW COMPLAINANT/VICTIM:

- [REDACTED] is a 5'6" tall male with black hair and brown eyes, aged [REDACTED] years.
- [REDACTED] is employed as a [REDACTED]

CCRB STATEMENT:

[REDACTED] was interviewed at the CCRB on June 29, 2016.

On June 5, 2016, at approximately 6:00pm, [REDACTED] emerged from the [REDACTED] in Brooklyn. He was holding a small clear plastic cup, inside of which was ice and Malta soda, which is brown-colored non-alcoholic carbonated beverage. The bottle in which it is sold is a dark-colored bottle resembling a beer-bottle. He obtained both the cup and the ice from the [REDACTED], which was where purchased the Malta. He did not purchase anything else there and he did not speak to anyone inside of the store. [REDACTED] had not consumed any alcohol on this day and had not consumed any other drugs or substances on this date. He was wearing black jeans, a black baseball cap, a black sweater, and black boots.

[REDACTED] was alone and speaking on his cell phone, on the sidewalk on the [REDACTED] side of the store. He was about ten feet away from the entrance to the deli. During these two minutes of standing, he had discarded the bottle in a trash can somewhere on the block. He did not have any in-person conversations with anyone during these two minutes.

A marked patrol vehicle approached from the direction of [REDACTED] making a left turn onto [REDACTED] where [REDACTED] stood. PO1 was seated in the front passenger seat, PO2 was driving, and PO3 was seated in the rear seats. The car stopped on the left side of the street, near the sidewalk where [REDACTED] was standing. PO1 spoke to [REDACTED] first, asking him, "What's in the cup?" [REDACTED] told him there was nothing in it, and that it had just been juice. [REDACTED] specified in his statement that the cup was almost entirely empty by this point and that it contained basically just ice. PO1 then asked him to smell his cup and [REDACTED] objected, asking him why he wanted to stick his nose in his cup. This exchange occurred while all of the officers were still inside of the car and neither PO2 nor PO3 had made any statements to [REDACTED] by this time.

PO1 exited the vehicle, followed shortly thereafter by PO2 and PO3. PO1 approached [REDACTED] and requested his ID. [REDACTED] objected, saying "You want me ID because you think I was drinking a beer?" PO1 then placed [REDACTED] in handcuffs. He did not ask [REDACTED] for ID any subsequent times. At some point PO1 took the empty cup from [REDACTED] and handed it to PO3. There was no struggle to get [REDACTED] into handcuffs. He then immediately inserted his hand into [REDACTED] back jeans pockets, where his wallet was, and removed the wallet to retrieve [REDACTED] ID. He did not frisk him. [REDACTED] also had keys in his front right jeans pocket, which were not removed; no other pockets were searched. After doing so, PO1 smelled the plastic cup and then said aloud that there was liquor in the cup. The officers placed [REDACTED] into the police vehicle and the officers took the same positions in the vehicle as they had before. Although it was light out, there were not many pedestrians in the area and he did not observe anyone stopping to watch his encounter with the police.

En route to the stationhouse, [REDACTED] began yelling at PO1 about the basis for the arrest and objecting to the allegation that he was drinking alcohol. PO1, in response, instructs PO2 to turn the vehicle around and go back to [REDACTED] where the incident had begun. They were about four blocks away from the arrest location when they turned around. PO2 did so and when they returned to the block, PO1 exited from the vehicle and retrieved the plastic cup from the sidewalk. He did not take any other action on scene. They then drove to the 75th Precinct stationhouse.

Upon arrival, PO1 led [REDACTED] past the desk and straight into the cells area. He still had his property on him, including his keys and his wallet as well as his ID. When they got to the holding cell, PO4 was there in the holding cell, which was the first time [REDACTED] had seen him. There were prisoners in the back cells, which were not in view of the cell into which they placed [REDACTED]

PO4 instructed [REDACTED] to remove his boots and his socks. He removed his boots but refused to remove his socks, which were black ankle socks. PO4 did not instruct him to remove any other items of clothing. By way of refusing, [REDACTED] said, "For a beer? I gotta take my socks off?" PO4 repeated his instruction and did not make any other statements. PO1 was still in the cell with them, but simply observed and did not say anything.

Interview Details

This back-and-forth about the socks, during which PO4 asked [REDACTED] two times to remove his socks, occurred while they were standing one foot's distance away from one another. [REDACTED] never took a step toward PO4 or made any movements as though to strike him or to strike PO1. His hands were by his sides, loose, during this conversation. He made no physical movements of any kind.

PO4 then punched [REDACTED] twice to the nose area, first using his right hand to punch the left side of [REDACTED] nose, then immediately after using his left fist to punch the right side of [REDACTED] nose. Both punches were executed using closed fists. In response, [REDACTED] put his arms to his face in an attempt to cover them. PO4 then punched him once to the left side of his ribs, using his right fist, causing soreness. The force of this punch brought [REDACTED] to the ground, where he landed on his right side. He was not injured from the fall. PO4 punched [REDACTED] on the left side of his ribs a second time once he was on the ground. PO4 then removed [REDACTED] socks, handcuffed him, and left him in the cell. There was no struggle to get [REDACTED] into handcuffs while he was on the ground. During the struggle, PO4 kept saying only, "Take off your socks, take off your socks!" [REDACTED] hands were up by his face area but he could not remember what he was doing with his hands during the struggle.

[REDACTED] nose was bleeding from the punches. EMS came and examined him and then [REDACTED] was taken to [REDACTED] Hospital while in custody. There, he received x-rays and was diagnosed with a nasal fracture but not given any treatment. Soreness to his left ribs developed over the course of days, leaving a bruise. He did not obtain any treatment for this injury.

He later learned, from his attorney, that PO4 was claiming [REDACTED] had spat at him. He did not know when this was alleged to have taken place. He denied ever spitting or attempting to spit on any officers. He did not make any noises in his throat consistent with beginning to spit.

At the end of his statement, [REDACTED] inquired as to whether the CCRB utilizes lie detectors tests to determine whether the officers are being truthful. He also expressed his skepticism that the officer who punched him would ever be held accountable, saying that perhaps he would only because that officers shares [REDACTED] skin color.

PO1: black male, 5'8" tall, 220 pounds, in his 30s, in uniform. Front passenger seat.

PO2: white male, 5'8" tall, light brown hair, 190 pounds, in uniform, unsure of age. Driver.

PO3: white male, in uniform. Could not describe further.

PO4: black male, 5'8" tall, 230 pounds, low cut hair, [REDACTED] years old, in uniform.

Interview Details

INTERVIEW SUBJECT OFFICER: SGT. MACKENSON NELSON

- Sgt. Nelson, [REDACTED] years old at the time of the incident, is a 5'11" tall, 195-pound black male with a shaved head and brown eyes.
- Sgt. Nelson worked from PO Bergami, RMP # [REDACTED] which is a marked vehicle. They were assigned to patrol and worked in uniform.

MEMO BOOK:

Sgt. Nelson's memo book notes that on June 5, 2016, at 6:00pm, [REDACTED] refused to comply with police orders and did step to officers' face and attempt to spit/swing. Defendant suffered a laceration to nose. Capt. Morales, Duty Captain, was present at the 75th Precinct. IAB was notified, log # [REDACTED]. TRI Prepared. PO Guy was the arresting officer.

CCRB STATEMENT:

Sgt. Nelson was interviewed at the CCRB on August 30, 2016.

On June 5, 2016, at approximately 6:00pm, Sgt. Nelson was standing at the 75th Precinct stationhouse desk with PO Delgado and PO Guy. Sgt. Nelson, as their supervisor, stamped [REDACTED] arrest into the command log. He could not recall who the desk officer was at this time. [REDACTED] was cursing and yelling at the officers, being obnoxious and refusing to give the officers his ID or any of his pedigree information. He was fidgeting and kicking, saying, "Don't touch me." Sgt. Nelson believed that [REDACTED] was highly intoxicated due to his cursing at the officers. At this point in the interview, Sgt. Nelson's legal representative, Sgt. Arthur Smarsch, interjected and asked Sgt. Nelson, "What she's asking is, did you smell alcohol on his breath, were his eyes blurry, was his speech slurred?" The investigator asked Sgt. Smarsch to refrain from provided the sergeant with answers to the investigator's questions. At this time, Sgt. Nelson stated that [REDACTED] was sweating and that he was not close enough to [REDACTED] to smell alcohol on him at this time. He did later smell alcohol on [REDACTED] when they were in closer proximity in the cells. While in front of the desk, Sgt. Nelson learned from PO Guy and PO Delgado that [REDACTED] had been arrested for drinking alcohol in public. They also told him that [REDACTED] had been uncooperative on scene and had refused to provide identification. There were no visible injuries on [REDACTED] who was handcuffed at this time, while in front of the desk.

The 75th Precinct stationhouse is laid out as follows: the holding cell and arrest processing area is located 10-15 feet from the desk, and contains a chair as well as the fingerprinting and photographing equipment. This arrest processing area is adjacent to the holding cell where male prisoners are lodged, but the areas are separated by a wall which has no windows.

PO Delgado and PO Guy took [REDACTED] to the arrest processing area. Sgt. Nelson was able to hear, from the desk area, that [REDACTED] was still screaming and cursing at the officers. He heard him saying, "Fuck you, I'm not taking them off," and the like. Five or ten minutes later, PO Delgado and/or PO Guy called out to Sgt. Nelson, saying, "Boss, can you come over here?", so Sgt. Nelson walked into the arrest processing area.

When Sgt. Nelson arrived, [REDACTED] was standing with his back against a wall and was not handcuffed. Sgt. Nelson was not present when his handcuffs were removed. PO Guy and PO Delgado were standing directly in front of him, but Sgt. Nelson could not recall how far they were standing from one another. Sgt. Nelson spoke to [REDACTED] explaining that it was procedure for him to remove his shoelaces and belt before being lodged in the cells. Sgt. Nelson asked him multiple times to remove these items and [REDACTED] refused to comply. [REDACTED] told Sgt. Nelson that Sgt. Nelson was just a "nigger that works for The Man" and that he was an "Uncle Tom." Sgt. Nelson denied telling [REDACTED] to remove his socks or hearing any other officer instruct him in such a way; instructions to remove his belt and shoelaces were the only items he was instructed to remove. Sgt. Nelson and [REDACTED] spoke for two or three minutes before [REDACTED] stepped toward Sgt. Nelson, and away from the wall. During those two or three minutes, [REDACTED] and Sgt. Nelson were standing fewer than 3 feet away from one another. Sgt. Nelson described [REDACTED] as having entered his "safety zone," which he described as an area in which [REDACTED] was close enough to have hit him and Sgt. Nelson felt fear. In order to encroach to this spot, [REDACTED] took one step toward him. He noted also that [REDACTED] at this time was close enough that Sgt. Nelson could smell alcohol on his breath and that [REDACTED] eyes were blurry and red. As [REDACTED] continued yelling at Sgt. Nelson, spit was flying out of his mouth and hitting Sgt. Nelson in the face. He stated that the spit came out of his mouth in the process of yelling and that [REDACTED] did not intentionally projectile saliva toward Sgt. Nelson. Once [REDACTED] stepped once toward Sgt. Nelson, both of his fists were balled and at chest-height. PO Delgado and PO Guy were standing directly next to Sgt. Nelson, one on each side of Sgt. Nelson, and instructing [REDACTED] to step back. During this time, [REDACTED] remained stationary and close to Sgt. Nelson.

Interview Details

Sgt. Nelson told [REDACTED] to step back and [REDACTED] did not do so. Sgt. Nelson therefore pushed him against the wall, which was 2-3 feet away. Sgt. Nelson took [REDACTED] by the shoulder – he could not recall which - and rotated him to get him against the wall. He did not make contact with any other parts of his body. He pressed [REDACTED] against the wall, such that his front made contact with the wall. He could not recall which part of [REDACTED] front hit the wall first, and stated that he never saw [REDACTED] face hit the wall. He did not push [REDACTED] face against the wall. Once he was against the wall, it took about a minute to handcuff [REDACTED]. Sgt. Nelson could not recall whether he handcuffed [REDACTED] himself or whether one of the other two officers did. He affirmed that these two officers assisted in getting [REDACTED] hands restrained but could not recall what their exact positions were relative to [REDACTED]. During the one minute, [REDACTED] shifted his torso area around, swung his arm, attempted to hug his hands toward his body, and continued yelling. He did not make any motions as if to strike Sgt. Nelson. Apart from restraining his arms, no other force was used by any officer. He could not recall whether [REDACTED] was ever seated in the chair located in the arrest processing room; he remembered [REDACTED] being in a seated position only. He did not recall there being any other officers present apart from PO Delgado and PO Guy. He was familiar with PO Heffernan, was assigned to cell attendant, but did not remember seeing him in the area. No one else assisted in restraining [REDACTED]. He could not recall whether there were any other civilians in the vicinity during this time.

Sgt. Nelson did not punch [REDACTED]. He did not observe any other officer punch him. Sgt. Nelson made no motions as if to strike [REDACTED] in the face. When [REDACTED] was handcuffed and turned back around, Sgt. Nelson observed that [REDACTED] had a bloody nose. He called an ambulance and [REDACTED] was taken to [REDACTED] Hospital. Sgt. Nelson did not see [REDACTED] after his return from the hospital. Sgt. Nelson believed that [REDACTED] belt and shoelaces were not removed as he was taken directly to the hospital and was not lodged in the cells at this time.

Following the incident, Sgt. Nelson spoke to Cpt. Morales, who was inside of the stationhouse at the time. He was not present for any part of the actual incident. Sgt. Nelson's conversation with Cpt. Morales occurred within 30 minutes of the struggle. He did not recall whether he ever told Cpt. Morales that he punched [REDACTED]. He believed that Cpt. Morales generated paperwork in regard to the force that was used against [REDACTED]. Sgt. Nelson was not involved in, or present for, the photographing and/or fingerprinting [REDACTED] and believed that all of that processing occurred after the struggle took place.

Upon reviewing the TRI Report, Sgt. Nelson stated that he did not fill out this form, and did not answer the questions listed in the first section in any manner. In reference to the section reading, "The sergeant's punch appeared to be in self-defense from a would be punch from the prisoner. After prisoner was struck once, he was then pushed against the wall and immediately handcuffed," Sgt. Nelson was asked whether he ever told any supervisor that he had punched [REDACTED]. Sgt. Nelson replied, "I don't recall that."

Sgt. Nelson notified Internal Affairs via telephone and summarized the incident. He recalled making this call, but when asked whether he told IAB that he had punched [REDACTED]. Sgt. Nelson stated, "I don't recall that."

Interview Details

Interview Subject Officer: PO Akil Guy

- PO Guy, [REDACTED] years old at the time of the incident, is a black male, 5'10" tall, 250 pounds, with black hair, and brown eyes.
- PO Guy was assigned to Impact Overtime on June 5, 2016. He was working with a partner but could not recall whom, and was in uniform. PO Guy was assigned to a marked RMP. His tour began at 2:00pm and lasted until 10:35pm.

Memo Book Entries:

1735- Pulled up to c/o [REDACTED], watched a male intox on corner, without saying anything to male he stated "are you really stopping me for alcohol." Observed cup with what appeared to be alcohol. Asked him what he was drinking and could smell alcohol on breath and alcohol when he threw cup on ground. Asked for ID, he refused. He flailed arms and pulled away from getting into custody.

1742- One under.

1755- Upon lodging in cells perp refused to remove sneakers after unhandcuffed. When Sgt. came to talk with perp he again refused. Perp began to spit and closed his fist and flexed as if he was going to strike Sgt. Nelson. Had to be subdued and cuffed.

1810- Transported to [REDACTED]

CCRB Statement:

PO Guy provided the following statement at the CCRB on October 13, 2016.

On June 5, 2016 at approximately 3:35pm PO Guy was stopping at a store on the corner of [REDACTED] in Brooklyn. He was working with a partner but did not recall who that person was. He did not recall whether he was driving the vehicle or not.

Immediately after stepping out of the vehicle, PO Guy observed [REDACTED] who was standing in front of the store. He was approximately 3-4 feet from the RMP.

[REDACTED] immediately stated, "Are you serious? Stopping me for drinking?" At that point, PO Guy had not said anything. PO Guy approached [REDACTED]. He stated that he smelled alcohol on [REDACTED] breath.

PO Guy stated, "Well, are you drinking?" [REDACTED] was holding a clear plastic cup. He was not holding any bottle. [REDACTED] then threw the cup on the floor. PO Guy stated that he could again smell alcohol and he believed it to be beer.

PO Guy asked [REDACTED] for his ID. At this point, it was PO Guy's intention to write [REDACTED] a summons. [REDACTED] refused to provide his ID. PO Guy then told [REDACTED] that he was under arrest and grabbed [REDACTED] arm. [REDACTED] attempted to pull his arm away and locked it to resist being handcuffed. PO Guy stated that it took 20-30 seconds to place him in handcuffs. PO Guy stated that his partner was next to him but could not recall what his role was in the arrest.

[REDACTED] was transported to the stationhouse. They arrived at approximately 5:50pm. At the stationhouse, PO Guy took [REDACTED] to the front desk. PO Guy was not sure if his partner was with him at that time. He could not recall who the desk sergeant was. PO Guy indicated that it was not Sgt. Nelson. PO Guy described [REDACTED] as extremely belligerent. He was calling PO Guy a "Black motherfucker," and "uncle tom." [REDACTED] was physically pulling away from PO Guy as he led him to the desk. They were at the desk for approximately two to three minutes.

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PO Guy then took [REDACTED] into the lodging area. This area faces the front desk in the stationhouse. PO Guy could not recall whether his partner was with him at this time. PO Guy stated that there were several chairs in the lodging area. PO Guy stated that [REDACTED] did not sit in a chair initially.

Once in the lodging area, PO Guy removed the handcuffs from [REDACTED]. PO Guy stated that he was still acting belligerently. He was repeatedly cursing. PO Guy instructed [REDACTED] to remove his shoes. [REDACTED] refused. PO Guy denied instructing [REDACTED] to take his socks off. After a couple of minutes, Sgt. Nelson came into the lodging area, having heard the commotion.

When Sgt. Nelson came into the lodging area, PO Guy stepped to the side. PO Guy stated that he was standing approximately six feet to the side. Sgt. Nelson continued to tell [REDACTED] to remove his shoes. PO Guy estimated that they went back and forth for approximately 20-30 seconds. PO Guy stated that [REDACTED] was spitting while he was talking. PO Guy could not confirm that it was on purpose or simply a result of speaking. [REDACTED] did not make any sounds as if to accumulate saliva to spit.

While arguing, Sgt. Nelson and [REDACTED] were standing approximately two to three feet apart. [REDACTED] then cocked his arm with a closed fist as if to throw a punch. PO Guy could not recall which arm. [REDACTED] took a step forward towards Sgt. Nelson in this same motion. [REDACTED] did not throw a punch. His arm never moved forward after cocking back.

PO Guy stated that [REDACTED] was then subdued by several officers. He stated that his view of [REDACTED] being subdued was blocked by several officers and thus could not say how they subdued [REDACTED]. PO Guy stated that he was not sure what other officers were involved in subduing [REDACTED].

When PO Guy could see [REDACTED] again, he stated that [REDACTED] was facing the wall of the lodging area. He could not recall if [REDACTED] was making contact with the wall. [REDACTED] was placed in handcuffs, but PO Guy could not recall by whom. PO Guy stated that the whole scuffle lasted approximately ten seconds.

PO Guy could not recall whether Sgt. Nelson, or any other officer, punched [REDACTED]. PO Guy denied punching [REDACTED] himself.

After being placed in handcuffs, [REDACTED] sat on a chair in the lodging area. PO Guy stated that after the scuffle, he noticed that [REDACTED] was bleeding from the nose. He did not observe how the injury was sustained.

[REDACTED] requested medical attention.

Interview Details

Interview Subject Officer: PO Horacio Delgado

- PO Delgado, [REDACTED] years old at the time of the incident, is a Hispanic male, 5'10'' tall, 155 pounds, with black hair and brown eyes.
- PO Delgado was assigned to Overtime Post 1 & 2 on June 5, 2016. He was working with PO Guy and was in uniform. He was assigned to a marked RMP. His tour began at 2:00pm and lasted until 10:25pm.

Memo Book Entries:

1735- Pulled up to C/O [REDACTED]. Observed male intox with cup filled with what was believed to be alcohol. Male made statement to PO Guy. Smelled alcohol on breath and from cup. Asked for ID deft refused. Dft flailed arms and pulled away.

1742- 10-92 C by Guy.

1755- While attempting to lodge perp. Perp did spit on Sgt. Nelson and closed fist and did attempt to strike Sgt. Nelson. Perp was subdued and placed in cell.

1810- Perp removed to hospital.

CCRB Statement:

PO Delgado provided the following statement at the CCRB on October 28, 2016.

On June 5, 2016, at approximately 5:35pm, PO Delgado and PO Guy stopped on the corner of [REDACTED] and [REDACTED]. PO Guy was driving. PO Delgado stated that they saw a "random group of people" standing on the corner and decided to stop. In addition they observed [REDACTED] standing on the corner holding a cup. PO Delgado could not say whether [REDACTED] was with the group of people. He could not recall whether [REDACTED] was talking to anyone. PO Delgado also could not state how many people were on the corner or where on the corner they were standing. PO Delgado and PO Guy got out of their vehicle. PO Delgado stated that they got out in order to create a "police presence."

When they got out of the vehicle, [REDACTED] was a few feet away from them. [REDACTED] immediately said, "Seriously, you're stopping me for alcohol?" [REDACTED] took a few steps towards PO Guy and himself. PO Delgado could not recall how many steps he took.

PO Guy asked [REDACTED] what he was drinking. [REDACTED] began cursing. [REDACTED] called PO Guy an "Uncle Tom," among other things. PO Delgado stated that he believed [REDACTED] to be intoxicated. In addition to his demeanor, PO Delgado stated that [REDACTED] was slurring his speech, had bloodshot eyes, and smelled of alcohol.

[REDACTED] then threw the cup on the ground. There was liquid in the cup, but PO Delgado could not recall what color it was. PO Delgado stated that he could smell the alcohol from the liquid on the ground. PO Delgado could not recall what kind of cup it was. He did not remember if [REDACTED] had anything else in his hands. [REDACTED] was not holding any type of bottle.

PO Guy and PO Delgado asked [REDACTED] for his ID two or three times. [REDACTED] refused to provide it.

PO Guy instructed [REDACTED] to place his arms behind his back and that he was under arrest. [REDACTED] did not comply. Each officer grabbed one arm to restrain him. PO Delgado could not recall which arm he grabbed. [REDACTED] resisted being placed in handcuffs by stiffening his arms, pulling away, and flailing his arms. While flailing his arms, [REDACTED] did not make contact with anyone.

PO Guy and PO Delgado then transported [REDACTED] to the 75 Precinct stationhouse.

Interview Details

As they were transporting [REDACTED] he continued to act belligerent and irate. He was screaming at PO Guy. As PO Guy and PO Delgado transported [REDACTED] into the stationhouse, he was moving around. [REDACTED] was trying to pull away from the officers and face in different directions. Each officer was holding one of [REDACTED] arms. PO Delgado could not recall which arm he was holding.

[REDACTED] was taken to the desk. PO Delgado could not recall who the Desk Sergeant was. [REDACTED] items were vouchered and then was taken to the lodging area.

Within the lodging area there were a couple chairs, a finger printing machine, and filing cabinets. PO Delgado stated that he could not recall if [REDACTED] was sitting or standing.

One of the officers removed [REDACTED] handcuffs. PO Delgado could not recall which officer did so. During his interview, PO Delgado stated that there was no consideration given to not removing [REDACTED] handcuffs. He stated that occasionally when a perp is acting violently they would leave the handcuffs on, however that was not the case with [REDACTED]

The officers then gave [REDACTED] several instructions. These included removing his shoes, laces, socks, and belt. They asked each request numerous times. PO Delgado could not recall if [REDACTED] was sitting or standing at this point.

[REDACTED] refused their instructions. He was still acting irate and screaming. PO Delgado and PO Guy were standing approximately an arm's length in front of [REDACTED]

Sgt. Nelson came into the cell after hearing [REDACTED] screaming and refusing orders. PO Delgado was pretty sure more officers came with Sgt. Nelson, though he was not sure how many or who any of them were.

Sgt. Nelson stepped in front of PO Delgado and PO Guy. At this time, Sgt. Nelson was approximately an arms length in front of [REDACTED] PO Delgado was just behind Sgt. Nelson and off his right shoulder. PO Guy moved a few feet off to the side. [REDACTED] was a foot or two away from the lodging wall. He had his back to that wall.

Sgt. Nelson attempted to calm [REDACTED] down verbally. He continued to instruct him to remove his shoes. [REDACTED] continued to refuse. PO Delgado could not recall how long they were going back and forth for. During this time, [REDACTED] was cursing at both PO Guy and Sgt. Nelson. PO Delgado stated that [REDACTED] also "threatened" PO Guy's family. During this time, [REDACTED] was facing Sgt. Nelson.

[REDACTED] then spat at Sgt. Nelson. PO Delgado stated that he paused from yelling and accumulated spit in his mouth. PO Delgado stated he could see him accumulating the spit. PO Delgado moved to avoid the spit. He stated he did not take any steps. PO Delgado stated that the spit did not land on him. He could not say whether or not it hit Sgt. Nelson.

[REDACTED] then balled his hands into fists. He then "flexed" at Sgt. Nelson. During his interview, PO Delgado demonstrated that [REDACTED] raised both hands, with closed fists. He indicated that [REDACTED] brought his fists from his side to his waist and chest area. [REDACTED] took one step forward. PO Delgado stated that he could not see if [REDACTED] moved his arm forward as if to throw a punch.

Sgt. Nelson then grabbed [REDACTED] with both hands. PO Delgado could not recall where on [REDACTED] body Sgt. Nelson grabbed. PO Delgado did not know if any other officers grabbed [REDACTED] to subdue him. He also did not recall where in the lodging area the additional officers were located.

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He then placed [REDACTED] against the wall of the lodging area. [REDACTED] chest was the only part of his body that made contact with the wall. PO Delgado could not recall how [REDACTED] was turned around. He did not see [REDACTED] face make contact with the wall. [REDACTED] resisted being placed back in handcuffs. PO Delgado could not recall how many officers were involved in placing handcuffs on [REDACTED] PO Delgado was not involved himself.

PO Delgado stated that he did not strike [REDACTED] He also did not observe Sgt. Nelson or any other officer strike [REDACTED]

After he was restrained, [REDACTED] was placed in a cell. At that time PO Delgado noticed that [REDACTED] was bleeding from his nose. He did not observe any other injuries. He did not know how [REDACTED] got this injury. This was the first time PO Delgado observed this injury.

PO Delgado was presented with the Treatment, Resistance, and Injury report created following this incident. He was shown the section title Actions Taken by MOS where it states an affirmative for "Hand strike." PO Delgado stated he did not recall a hand strike by Sgt. Nelson. PO Delgado's attention was then called to the section titled Civilian Subject Injury where it refers to a Sgt.'s punch. PO Delgado reiterated that he did not see Sgt. Nelson throw a punch. When he was asked about the discrepancy, PO Delgado stated he did not see what was stated. He further stated that he was never informed that there was a punch thrown.

PO Delgado was asked if he had discussed the incident with PO Guy. PO Delgado stated that he had and that it was common for them to discuss arrests. PO Delgado was then asked if he had discussed this incident with PO Guy on the day of this interview. PO Delgado stated that he had not. When asked if he had spoken to his partner at all on this day, PO Delgado stated that his partner was in fact with him at the CCRB. PO Delgado's representative asked if PO Guy was a subject in this case and had been interviewed. PO Delgado answered yes to the representative. The investigator asked PO Delgado why PO Guy had accompanied him to the CCRB this day. PO Delgado's representative objected and the investigator moved on.



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[INSERT DATE]

[INSERT D/C INFO]

Re: [INSERT CASE NAME]
Kings County Dkt./Ind. No. [#####]

In connection with the above-named case, the People voluntarily provide the following information regarding:

MOS NAME: Mackenson Nelson

MOS TAX: [REDACTED]

in satisfaction (to the extent applicable) of their constitutional, statutory, and ethical obligations. Further, the People reserve the right to move in limine to preclude reference to this information, or otherwise to object to its use and/or introduction into evidence.

Disclosure # 1:

NYPD SUBSTANTIATED THE FOLLOWING ALLEGATION AGAINST MOS ARISING OUT OF AN INCIDENT ON 02/22/2011:

ALLEGATION:

1. MEMOBOOK INCOMPLETE/ INACCURATE
CASE STATUS: CLOSED ON 11/02/2011
PENALTY: SCHEDULE B COMMAND DISCIPLINE

Disclosure # 2:

NYPD SUBSTANTIATED THE FOLLOWING ALLEGATION AGAINST MOS ARISING OUT OF AN INCIDENT ON 12/03/2015:

ALLEGATION:

1. MEMOBOOK INCOMPLETE/ INACCURATE
CASE STATUS: CLOSED ON 02/12/2016
PENALTY: SCHEDULE A COMMAND DISCIPLINE

Disclosure # 3:

The People are aware of the following federal civil rights action(s) and/or state tort civil lawsuit(s) in which the indicated officer has been named as an individual defendant. Note, the disposition information may not be current:

1. LEROY FLUDD AND BRYCE JONES V. CITY OF NEW YORK, ET AL 504341/2013, FILED IN KINGS COUNTY SUPREME COURT
2. TAMATA WILLIAMS V. CITY OF NEW YORK, ET AL, 14-CV-02191, FILED IN THE EASTERN DISTRICT OF NEW YORK

BASED UPON CCRB DOCUMENTS UP TO DATE THROUGH OCTOBER 13, 2020, THE PEOPLE ARE AWARE OF THE FOLLOWING CCRB SUBSTANTIATED AND/OR PENDING ALLEGATIONS AGAINST THIS OFFICER:

Disclosure #4

CCRB Case: 201505430

Report Date: 07/01/2015

Incident Date: 06/30/2015

CCRB Substantiated Allegation: Abuse - Refusal to process civilian complaint

NYPD Disposition: Instructions

Disclosure #5

CCRB Case: 201602756

Report Date: 04/01/2016

[REDACTED]

Disclosure #6

CCRB Case: 201602804

Report Date: 04/04/2016

[REDACTED]

Disclosure #7

CCRB Case: 201605134

Report Date: 06/14/2016

Incident Date: 06/05/2016

CCRB Substantiated Allegation(s):

1. Force - Physical force

NYPD Disposition: No Disciplinary Action-DUP, and No penalty

Other Misconduct Noted (No CCRB Jurisdiction):

1. False official statement

Eric Gonzalez
District Attorney
Kings County