



POLICE DEPARTMENT

April 11, 2025

Jonathan Darche
Executive Director
New York City Civilian Complaint Review Board
100 Church Street, 10th Floor
New York, NY 10007

Re: CCRB Case No. 202309830 (Incident Date: October 18, 2023) regarding Police Officer Joseph Abate, Tax No. 941301 (POS Case No. C-033580)

Dear Mr. Darche:

The Police Commissioner has reviewed the request for Charges and Specifications in connection with CCRB Case No. 202309830, pertaining to Police Officer Joseph Abate. Having analyzed the facts and circumstances of this matter, the Police Commissioner has determined that to pursue Charges and Specifications against Police Officer Abate would be detrimental to the Police Department's disciplinary process.

In this matter, the Police Commissioner has determined that no disciplinary action is warranted. From the beginning of this interaction, Police Officer Abate approached the complainant with patience and respect. The video evidence establishes, that the complainant set out to engage in a hostile encounter with the police officers, as he purposefully blocked an off-duty Sergeant from parking his vehicle in designated parking for police personnel. For several minutes, Police Officer Abate attempted to get the complainant to voluntarily move out of the way of the vehicle that was attempting to park. Police Officer Abate's instructions were lawful orders, which the complainant disregarded. As such, Police Officer Abate was within his right to take action to move the complainant and his Citi-Bike out of the way. Police Abate proceeded to do this rather gently. Even as the complainant attempted to pull the Citi-Bike away, Police Officer Abate did not escalate force, but rather explained that he was not taking it, but simply moving it to allow the off-duty member to park. As the complainant was physically inhibiting Police Officer Abate from moving the Citi-Bike, the complainant demanded Police Officer Abate's shield number. Police Officer Abate proceeded to provide his shield number and continued to guide the complainant out of the way to a safer location, to allow the vehicle to park.

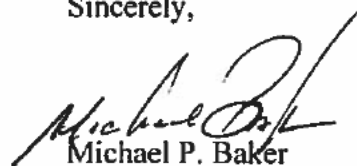
The actions of Police Officer Abate were de minimis, non-injurious, and non-escalatory. The video evidence is clear that Police Officer Abate acted professionally, respectfully, and attempted to de-escalate. Furthermore, Police Officer Abate has been an officer for approximately nineteen (19) years, and has no prior substantiated CCRB allegation and no prior formal Department disciplinary history.

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Therefore, as provided for within the 2012 Memorandum of Understanding between the CCRB and the New York City Police Department, the Police Commissioner, in the interest of justice and to retain jurisdiction over this matter, intends to impose no disciplinary action for the alleged misconduct.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael P. Baker", with a stylized flourish at the end.

Michael P. Baker
Deputy Chief
Commanding Officer
Police Commissioner's Office



ERIC L. ADAMS
MAYOR

CIVILIAN COMPLAINT REVIEW BOARD
100 CHURCH STREET 10th FLOOR
NEW YORK, NEW YORK 10007 ♦ TELEPHONE (212) 912-7235
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MOHAMMAD KHALID
INTERIM CHAIR

April 14, 2025

The Honorable Jessica Tisch
Police Commissioner
New York City Police Department
One Police Plaza
New York, New York 10038

Re: CCRB v. Police Officer Joseph Abate, Tax No. 941301
CCRB Disciplinary Case No.: 202309830 (PODS No. C-033580)

Commissioner Tisch:

I am writing in response to the letter from Deputy Chief Michael P. Baker, dated April 11, 2025, informing the Civilian Complaint Review Board (hereinafter referred to as “CCRB”) of your intent to dismiss the Charges and Specifications against Police Officer Abate. Pursuant to Paragraph 2 of the April 2, 2012, Memorandum of Understanding (hereinafter referred to as the “MOU”) between CCRB and the New York City Police Department. I am responding to Deputy Chief Baker’s notification.

Deputy Chief Baker determined that the actions of Police Officer Abate were de minimis, non-injurious, and non-escalatory in that he provided orders that were lawful and used the requisite amount of force to carry out those orders.

NYPD Patrol Guide Procedure 221-01 limits the use of force to very particular circumstances, stating that officers may use force “when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody.” Under these circumstances, PO Abate would not have been permitted to use force, because there were no safety concerns nor was the complainant being placed or being held in custody. While PO Abate gave several orders for the complainant to vacate the area of the sidewalk in which his colleague wished to park, per Finest Message #38873358 and NYPD Patrol Guide procedure 219-29, officers are never permitted, absent exceptional circumstances, to park on sidewalks. As such, PO Abate, or any other officer, did not have authority to order the complainant out of the way or to move from the public walkway when there was no legally justifiable reason to order him to do so – such an order cannot be considered lawful, thus cannot require compliance, and certainly not enforcement through use of force.

While it is recognized that the Police Commissioner is the final arbiter regarding disciplinary actions against members of service, based upon the foregoing, it is respectfully requested that you permit CCRB to pursue Charges and Specifications against PO Abate in this matter.

Respectfully submitted,

Andre D. Applewhite

p.p., Andre Applewhite, Chief Prosecutor for
Jonathan Darche, Executive Director
NYC Civilian Complaint Review Board



POLICE DEPARTMENT

April 18, 2025

Jonathan Darche
Executive Director
New York City Civilian Complaint Review Board
100 Church Street, 10th Floor
New York, NY 10007

Re: CCRB Case No. 202309830 (Incident Date: October 18, 2023) regarding Police Officer Joseph Abate, Tax No. 941301 (PODS Case No. C-033580)

Dear Mr. Darche:

The Police Commissioner has reviewed your letter, dated April 14, 2025, concerning the Civilian Complaint Review Board ("CCRB") case involving Police Officer Joseph Abate, and nevertheless maintains that it would be detrimental to the Police Department's disciplinary process to allow the Civilian Complaint Review Board to continue its prosecution of Police Officer Abate for the reasons expressed in my April 11, 2025 letter.

Therefore, the Police Commissioner affirms her decision to exercise Provision Two of the Memorandum of Understanding and now directs that no disciplinary action be imposed for the alleged misconduct.

Sincerely,

Michael P. Baker
Deputy Chief
Commanding Officer
Police Commissioner's Office