

Taxi & Limousine Comm'n v. Sutradhar

OATH Index No. 1144/26 (Jan. 23, 2026)

At a post-suspension hearing, petitioner established that respondent poses a direct and substantial threat to public health or safety. Continued suspension of respondent's license is recommended.

NEW YORK CITY OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

In the Matter of
TAXI AND LIMOUSINE COMMISSION
Petitioner
- against -
BABUL SUTRADHAR
Respondent

REPORT AND RECOMMENDATION

SEON JEONG LEE, *Administrative Law Judge*

Petitioner, the Taxi and Limousine Commission ("TLC"), commenced this proceeding against respondent, Babul Sutradhar, holder of a TLC driver license. Admin. Code §§ 19-505(1), 19-512.1(a) (Lexis 2026); 35 RCNY § 68-15(d) (Lexis 2026). On December 26, 2025, petitioner suspended respondent's TLC driver license after he was arrested and charged with assault in the third degree, a misdemeanor (Pet. Ex. 3). 35 RCNY § 68-15(d)(1); Penal Law § 120.00(1) (Lexis 2025). Petitioner contends that respondent poses a direct and substantial threat to public health or safety and seeks to continue the suspension pending the criminal charge. Respondent opposes the continued suspension and asserts that he does not pose a direct and substantial threat to public health or safety.

At a post-suspension hearing held by videoconference on January 8, 2026, petitioner relied solely on documentary evidence. Respondent testified on his own behalf with the aid of a Bengali interpreter, and offered one character witness and video evidence.

For the following reasons, I find that respondent poses a direct and substantial threat to public health or safety and recommend continuing his TLC driver license suspension while the criminal charge is pending.

ANALYSIS

Petitioner may suspend a TLC driver license before a hearing “if the Chairperson believes that continued licensure would constitute a direct and substantial threat to public health or safety.” 35 RCNY § 68-15(a)(1); *see also* Admin. Code § 19-505(1). If the suspension is based solely on an arrest, the licensee may challenge the suspension at a post-suspension hearing where the TLC “must prove by a preponderance of the evidence that the charges pending against the Respondent, if true, demonstrate that the continuation of the Respondent’s License during the pendency of criminal charges would pose a direct and substantial threat to public health or safety.” 35 RCNY § 68-15(d)(5). Factors relevant to this inquiry include: the particular facts and circumstances underlying the criminal charges; any nexus between the respondent’s duties and responsibilities as a licensee and the alleged offense; the respondent’s driving record; any previous criminal record, or the lack thereof; and the respondent’s character and standing in the community. *Id.*

The United States Court of Appeals for the Second Circuit has held that due process affords a driver “an opportunity to show that his or her particular licensure does not cause a threat to public safety.” *Nnebe v. Daus*, 931 F.3d 66, 83 (2d Cir. 2019). A continued suspension of the license could be warranted if petitioner demonstrates that the threat posed to the public is both “direct” and “substantial”; the threat may be less direct “the further removed the crime is from the driver’s job,” and less substantial “[d]epending on the surrounding circumstances and the driver’s history.” *Id.* at 82. Other relevant considerations include whether the charged crime is “a sole infraction in an otherwise spotless record,” or the underlying conduct, while it establishes the elements of a crime, “was technical or mitigated, such that continuation of the driver’s license did not pose the kind of threat conjured by the general nature of the crime charged.” *Id.* The necessary inquiry into whether “the driver’s continued licensure would pose a threat to the safety of the public” must consider both the “conduct underlying the arrest and the overall record and character of the driver.” *Id.* at 82-83.

On December 26, 2025, respondent was arrested by the Port Authority Police and charged with violating Penal Law section 120.00(1), assault in the third degree (Pet. Exs. 4, 6). Respondent signed a Desk Appearance Ticket summoning him to appear in Queens Criminal Court on January 15, 2026, to answer the criminal charge (Pet. Ex. 4). The criminal complaint that is signed and dated January 2, 2026, a week after the incident, also charged respondent with harassment in the

second degree (Pet. Ex. 6).¹ Penal Law § 240.26(1) (Lexis 2025). At the time of this hearing, respondent was scheduled to appear on January 15, 2026, for arraignment in criminal court (Pet. Ex. 5 at 3).

For the circumstances underlying respondent's arrest, petitioner relied on the hearsay statements in the criminal court complaint signed by the arresting officer, Port Authority police officer Alyssa Vasquez (Pet. Exs. 4, 6). The complaint alleged that on December 26, 2025, between 12:18 a.m. and 12:48 a.m., in front of John F. Kennedy ("JFK") Airport Terminal 4, respondent "hit [complainant] in the face with his phone" (Pet. Ex. 6). The complaint further alleged that the complainant sustained a "laceration and swelling to his face" and experienced "substantial pain as well as annoyance and alarm" (*Id.*). Petitioner did not present a police report for the incident.

Respondent's Curb driver trip log notes that he was on duty at the time of the alleged incident, with his shift starting at 3:39 p.m. on December 25, 2025, and ending at 1:01 a.m. on December 26, 2025 (Pet. Ex. 7).

Respondent has been a TLC licensee since March 2023 (Pet. Ex. 2). Petitioner presented a TLC "adjudication list" for respondent documenting eight recent violations for which he pled guilty to or was found guilty of, from September 4, 2023 to January 5, 2025, involving a variety of infractions against passengers or the public and noncompliance with driving rules (Pet. Exs. 8, 8A). Violations involving passengers or the public include fare overcharge (35 RCNY § 80-17(a)(1)); threatening, harassing, or abusing a person, or distracting or attempting to distract a Service Animal (35 RCNY § 80-12(e)); improper operation of the vehicle door lock feature while on duty (35 RCNY § 80-15(c)); and noncooperation with enforcement officers or authorized representatives of the Commission (35 RCNY § 80-12(j)(1)) (Pet. Ex. 8). The driving-related violations are two moving violations involving "failing to yield right of way" (35 RCNY § 80-13(a)(3)(vi)) and "improper passing" (35 RCNY § 80-13(a)(3)(xi)); and two violations of the prohibition against using an electronic communication device or a tablet while driving (35 RCNY § 80-14(g)(1)) (*Id.*). The underlying circumstances of these violations were not provided.

Respondent's New York State Department of Motor Vehicles ("DMV") driving abstract documented one accident on November 16, 2024, that resulted in property damage (Pet. Ex. 9).

¹ Harassment in the second degree, a violation, is not a basis for this suspension (Pet. Ex. 3).

Respondent testified that he is 58 years old, and has never been accused of or arrested for a crime before this incident (Tr. 22). Prior to the instant matter, TLC has never sought to suspend respondent's TLC driver license (Tr. 23). He drives a wheelchair-accessible vehicle and a yellow taxi (Tr. 22). He has been driving a yellow taxi for approximately two years and, based on his own record keeping, estimated that he has completed more than 3,000 trips (Tr. 22-23, 35). He did not testify about his driving history with the accessible vehicle. Respondent said he is aware of one passenger complaint made against him accusing of fare overcharge by a passenger he picked up at LaGuardia Airport. Respondent denied the accusation and explained that he took a detour on this trip on advice of a friend who told him about "much traffic" on the direct route (Tr. 23).

Despite the pending criminal charges, respondent waived his Fifth Amendment right against self-incrimination and testified about the circumstances underlying his arrest. On the night of December 25, 2025, respondent drove his yellow taxi to JFK Airport and a dispatcher assigned him a passenger pick up (Tr. 24). There were four passengers, two adults with two minors who entered the taxi first (Tr. 29). The passengers had five or six pieces of luggage (Tr. 24). He told the passengers to wait as he placed them inside the car (*Id.*). He put the luggage inside of the car except for one small piece of luggage. Respondent testified that an adult passenger took that small luggage and threw it "inside his car" at the "backside seat" (Tr. 24-26, 36). The passenger did not throw the luggage at respondent, and the luggage did not hit him (Tr. 26, 36-38). Respondent testified that this passenger did not exhibit any signs of anger or aggression before throwing the luggage, but respondent believed that the passenger's behavior was "intentional[]" (Tr. 36). Respondent was "surprised" and asked this passenger in a loud voice why he threw the luggage and told the passenger that he would put the luggage inside his car (Tr. 26-27, 37-38). Respondent testified that this passenger became angry and "pushed him" (Tr. 26).

Respondent presented an 11-second video recording with audio of the airport taxi pick-up area at nighttime. The video was recorded from one end of the terminal sidewalk. No date or time stamp is provided in the video, and it is unclear who or how it was recorded. Respondent testified that the recording was of him and a passenger engaged in an altercation (Tr. 28-29). Two airport personnel wearing neon-yellow vests are present in the area. A yellow taxi minivan is in the background with its headlights on and the driver's side door and trunk open. An adult male passenger is standing by the taxi, appearing calm, with a piece of luggage on the ground next to him. Another adult male passenger, several inches taller and larger than respondent, wearing a

black baseball cap and a white T-shirt, appears to be holding respondent by the coat and pushing respondent along the terminal sidewalk (Resp. Ex. A). The video begins with this passenger looking upset while pushing respondent and saying in a loud voice something like, “He bust my eye,” as he looks toward one of the airport personnel (*Id.*). Respondent is getting pushed by the passenger and backpedals while facing the passenger. The passenger then faces respondent and says, “You hit me with your f---ing phone” (*Id.*). A passerby asks what happened, and the passenger looks at this individual and replies, “He hit me with his phone” (*Id.*). Respondent responds incoherently to all of this in a loud voice (*Id.*). The video is not clear enough to see whether the passenger suffered injury near his eye. Aside from the pushing, the video does not show this passenger using any other force against respondent.

Respondent testified that the man in the video who pushed him was the “friend” of the passenger who threw the luggage into his car (Tr. 29, 38). Respondent denied punching, slapping, or threatening to punch or slap the passengers (Tr. 29-30). Respondent testified that while the passenger was pushing him, he was trying to get his phone from inside his pocket (Tr. 30-31). Respondent’s testimony about what took place during this time is unclear. At one point, he testified that the passenger took his phone (Tr. 30-31). He also testified that he did not know how the passenger hurt his face, and that it could have been caused by respondent’s “[finger]nail” or “phone” as he was being pushed (Tr. 31, 34). However, the video does not show respondent’s hand or phone touching the passenger’s face during the altercation. Respondent testified that, some time later, he noticed blood in the “corner of [the passenger’s] eye” (Tr. 34). Respondent denied hitting the passenger or using his phone to hit him (Tr. 31, 34). He testified that the passenger was “holding him,” thus preventing him from moving away (Tr. 34).

Respondent does not know who called the police, but the Port Authority Police arrived at the scene (Tr. 30-32). The police did not witness the incident, and they spoke with respondent and the passengers separately (Tr. 32). Respondent was arrested on the terminal sidewalk and transported to the “Port Authority court,” but the passengers were permitted to leave in another car (*Id.*). After his arrest, respondent communicated with the police through a Bengali police officer who served as an interpreter (Tr. 33). The police did not ask him whether he wanted to file a complaint against the passenger (*Id.*).

Lutfar Sarker testified about respondent’s character (Tr. 41, 43). Both he and respondent are from Bangladesh. He has known respondent, who is a close friend of another friend, for about

five or six years, and “sometime[s] [they] hang around together” (Tr. 44). He lives about ten blocks from respondent in East Elmhurst, and he sees respondent’s family sometimes once a week or once a month (Tr. 44, 48-49). He testified that he knows respondent well and has never seen him act in a violent or threatening manner, or be disrespectful toward anyone (Tr. 44-45). He also knows respondent’s wife and son, and described respondent as “very good with his family” (Tr. 46-47). He described respondent as a “nice man,” and despite the pending assault charge and the 2024 car accident, he would entrust respondent to drive his family (Tr. 47-50).

The inquiry is whether petitioner established that respondent’s continued licensure poses a direct and substantial threat to public health or safety in view of the underlying arrest and respondent’s overall record and character. *See Nnebe*, 931 F.3d at 82. The determination is highly fact-dependent and requires an “individualized assessment of the circumstances of each case.” *Taxi & Limousine Comm’n v. Encarnacion*, OATH Index No. 2457/22 at 5 (June 17, 2022), *adopted*, Comm’r Dec. (June 22, 2022); *see* 35 RCNY § 68-15(d)(5). Petitioner has met its burden here.

At this proceeding, the pending criminal charge of third-degree assault is presumed to be true. *See Nnebe*, 931 F.3d at 90 (finding “no constitutional infirmity in a process that allows for context-specific findings but does not open the question of a driver’s factual guilt of the criminal charges”). In addition, the pending charges have a direct nexus to respondent’s duties as a TLC licensee as they stemmed from an altercation with a passenger while respondent was on duty. *See Taxi & Limousine Comm’n v. Jeanpierre*, OATH Index No. 1967/25 at 8 (May 12, 2025), *adopted*, Comm’r Dec. (May 23, 2025) (finding a “direct nexus” between the duties of a licensee and the pending assault charge that resulted from an argument respondent had with another driver while on duty); *Taxi & Limousine Comm’n v. Hamizane*, OATH Index No. 663/21 at 10 (Dec. 11, 2020), *adopted*, Comm’r Dec. (Dec. 30, 2020) (recognizing “a nexus between crimes of assault and TLC-licensed activities, given the need for drivers to maintain self-control when disputes arise in their interactions with passengers and other drivers”); *see also Taxi & Limousine Comm’n v. Anonymous*, OATH Index No. 2270/23 at 3-5, 8 (Mar. 23, 2023), *adopted*, Comm’r Dec. (Apr. 13, 2023) (finding that a driver who was arrested after an alleged verbal and physical dispute with a passenger while on duty posed a continuing risk to the public).

In certain instances, even when the alleged assault occurred on duty, the underlying circumstances of the arrest could demonstrate extraordinary provocation and mitigate the threat

posed by respondent's pending charge. *See, e.g., Taxi & Limousine Comm'n v. Doss*, OATH Index No. 2502/24 at 2, 4, 6 (Apr. 15, 2024), *adopted*, Comm'r Dec. (May 2, 2024) (lifting suspension for respondent who was arrested and charged with third-degree assault, based on credible evidence that the complainant was the aggressor and was also arrested); *Taxi & Limousine Comm'n v. Shi*, OATH Index No. 2419/24 at 6-7 (Mar. 15, 2024), *adopted*, Comm'r Dec. (Mar. 18, 2024) (lifting suspension for respondent charged with assault in third degree who testified credibly that another driver attacked him and he acted in self defense before both drivers were arrested); *Taxi & Limousine Comm'n v. Anonymous*, OATH Index No. 375/21 at 3 (Oct. 27, 2020), *adopted*, Comm'r Dec. (Oct. 28, 2020) (lifting suspension where respondent was responding to aggression initiated by the driver and passenger of another vehicle, both of whom were also arrested for the incident).

No such provocation was established in this case. Respondent admitted to raising his voice at a passenger who threw a small piece of luggage into his vehicle. Respondent claimed that this passenger then pushed him, but there is no indication that respondent was hurt. The video evidence does not show this earlier part of the interaction with passengers, but begins with respondent struggling with an adult male, who respondent identified as another passenger who was the "friend" of the passenger who threw the luggage. The "friend" passenger's contemporaneous statement in the video recording supports the allegation in the criminal complaint that respondent hit him with the phone. Although respondent denied hitting any passenger in the face with his phone, he testified that he might have injured the passenger with his "fingernail" or "phone" during the altercation, and he saw blood near the passenger's eye (Tr. 31, 34). The video, however, does not show respondent's hand or phone anywhere near the passenger's face during the altercation. I found respondent's testimony regarding how the passenger was injured, which he conceded had occurred, confusing and unclear, and, therefore, incredible.

It is troubling that a passenger was injured during an interaction with respondent. A passenger's act of throwing luggage into respondent's vehicle is disrespectful and upsetting. Notably, this incident occurred shortly past midnight, the day after Christmas, when many people are traveling, at one of the busiest airports in the country, and it is reasonable that some passengers and drivers, including respondent, were tired and frustrated.

However, TLC licensees are professional drivers responsible for public safety and may be held to a higher standard of care than the rest of the driving public. *See Taxi & Limousine Comm'n*

v. Ahmed, OATH Index No. 1077/19 at 2 (Feb. 7, 2019), *adopted*, Comm’r Dec. (Feb. 26, 2019). Drivers are expected to “maintain self-control and professionalism in their many interactions with passengers, other drivers, and other members of the public.” *Taxi & Limousine Comm’n v. Masum*, OATH Index No. 2012/20 at 6 (June 1, 2020), *adopted*, Comm’r Dec. (June 12, 2020). The credible evidence showed that respondent became upset with a discourteous passenger and he had not managed to maintain the level of professionalism required of a licensee.

Respondent has a relatively short driving history. No evidence was provided regarding his passenger ratings. In the approximately three years as a licensee, respondent has violated on eight separate occasions various TLC rules involving both infractions against a passenger or member of the public, or for noncompliance with driving rules. There is some mitigation, such as respondent’s lack of prior arrests or suspensions, and his friend’s testimony vouching for his good character. However, consideration of all the relevant factors including the circumstances underlying the arrest, as well as respondent’s overall record as a driver and his character, weigh in favor of continuing the license suspension.

At trial, respondent moved to dismiss the petition on the grounds that the evidence failed to demonstrate he is a threat to public safety (Tr. 7, 19). This motion is denied, because petitioner has proved by a preponderance of the credible evidence that respondent’s licensure poses a direct and substantial threat to public health or safety.

FINDINGS AND CONCLUSIONS

1. Respondent was arrested and charged with misdemeanor assault in the third degree.
2. Petitioner established that respondent poses a direct and substantial threat to public health or safety in support of continuing the license suspension during the pendency of his criminal charge.

RECOMMENDATION

Respondent's TLC driver license suspension should remain in place pending the resolution of his criminal charge.

Seon Jeong Lee
Administrative Law Judge

January 23, 2026

SUBMITTED TO:

DAVID DO
Commissioner/Chair

APPEARANCES:

SHIVAJEET CHAKRABORTY
Representative for Petitioner

DAN ACKMAN, ESQ.
Attorney for Respondent