

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: John Kurita	Team: Team # 4	CCRB Case #: 201208174	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 06/27/2012 6:45 AM	Location of Incident: Richmond Road and Mary Street	Precinct: 120	18 Mo. SOL 12/27/2013	EO SOL 12/27/2013	
Date/Time CV Reported Wed, 06/27/2012 8:26 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 06/27/2012 8:26 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Christian Cataldo	04133	939985	120 PCT
2. POM Daniel Pantaleo	13293	942805	120 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Daniel Pantaleo	Abuse: PO Daniel Pantaleo stopped § 87(2)(b)	
B.POM Christian Cataldo	Abuse: PO Christian Cataldo stopped § 87(2)(b)	
C.POM Daniel Pantaleo	Abuse: PO Daniel Pantaleo frisked § 87(2)(b)	
D.POM Daniel Pantaleo	Abuse: PO Daniel Pantaleo searched § 87(2)(b)	
E.POM Christian Cataldo	Abuse: PO Christian Cataldo frisked § 87(2)(b)	
F.POM Christian Cataldo	Abuse: PO Christian Cataldo searched § 87(2)(b)	
§ 87(2)(g), § 87(4-b)		

Case Summary

On June 27, 2012, § 87(2)(b) called the CCRB and filed a complaint against NYPD officers identified by the investigation as PO Daniel Pantaleo and Christian Cataldo, both of the 120th Precinct (encl. 12-13). § 87(2)(b) reported that on June 27, 2012, at approximately 6:45 a.m., in the vicinity of Richmond Road and Mary Street in Staten Island, he interacted with PO Pantaleo and PO Cataldo. The following allegations resulted from his complaint:

- **Allegation A- Abuse of Authority: PO Daniel Pantaleo stopped** § 87(2)(b)
Allegation B- Abuse of Authority: PO Christian Cataldo stopped § 87(2)(b)
§ 87(2)(b), § 87(2)(g)
- **Allegation C- Abuse of Authority: PO Daniel Pantaleo frisked** § 87(2)(b)
§ 87(2)(b), § 87(2)(g)
- **Allegation D- Abuse of Authority: PO Daniel Pantaleo searched** § 87(2)(b)
- **Allegation E- Abuse of Authority: PO Christian Cataldo frisked** § 87(2)(b)
- **Allegation F- Abuse of Authority: PO Christian Cataldo searched** § 87(2)(b)
§ 87(2)(b), § 87(2)(g)
- § 87(2)(g), § 87(4-b)

Mediation was presented as an option to § 87(2)(b) but he rejected because he did not wish to meet the officers again.

Results of Investigation

Civilian Statements

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) § 87(2)(b)

CCRB Testimony:

§ 87(2)(b) provided a telephone statement on June 28, 2012 (encl. 14). Any inconsistencies are noted below. § 87(2)(b) provide a statement at the CCRB on July 2, 2012 (encl. 15-20). On June 27, 2012, at approximately 6:45 a.m., § 87(2)(b) walked in the vicinity

of Targee Street and Vanderbilt Street in Staten Island where he stopped at a deli and used the ATM machine and said hello to an acquaintance named “§ 87(2)(b) § 87(2)(b) did not stop to converse with § 87(2)(b) or make physical contact with him. § 87(2)(b) left the deli and walked to Roff Street and Vanderbilt Street when he observed a grey unmarked patrol car occupied by two officers, identified by the investigation as PO Daniel Pantaleo, described as a white male in plain clothes, who was 6’0” tall with a thin build and approximately 27 to 33 years old, wearing a wind breaker, and PO Christian Cataldo, described as a white male in plain clothes who was approximately 5’9” tall with a muscular build and what appeared to be red colored tattoos on his right forearm.

§ 87(2)(b) recognized PO Pantaleo, the driver of the car, as one of two officers who arrested him for possession of marijuana on § 87(2)(b) § 87(2)(b) made eye contact with PO Pantaleo and PO Cataldo and they returned his eye contact. § 87(2)(b) then made a right turn on Roff Street and walked to Park Hill Avenue where he intended to find a female friend of his and provide her with lunch money. § 87(2)(b) did not know the name, address, or contact information of his friend. In his left front pant pocket, § 87(2)(b) had identification, a bank card, two metro cards, 30 dollars in cash, and a cell phone. In his right front pants pocket, § 87(2)(b) had a can of pepper spray. § 87(2)(b) had nothing in his rear pants pockets and nothing attached to his waist or belt. § 87(2)(b) wore a grey cotton windbreaker, blue jeans, a cotton shirt, and sneakers. He had house keys in the right front pocket of the windbreaker and one glove each in the right and left pockets. § 87(2)(b) stated that it was a cool morning and he wore the windbreaker without realizing that the gloves were in the pockets.

§ 87(2)(b) looked from Roff Street and Park Hill Avenue toward 141 Park Hill Avenue and did not observe his friend. § 87(2)(b) then considered visiting a different friend at 140 Park Hill Avenue, but reconsidered when he decided it was too early in the morning to visit. At this point, § 87(2)(b) was in front of 187 Park Hill Avenue, where he also has acquaintances. § 87(2)(b) did not speak to any individuals on the street. § 87(2)(b) did not enter any building except for the deli at Vanderbilt Avenue and Targee Street. While § 87(2)(b) stood in front of 187 Park Hill Avenue, he observed the grey unmarked car occupied by PO Pantaleo and PO Cataldo drive southbound on Park Hill Avenue.

§ 87(2)(b) walked south on Park Hill Avenue, made a right turn on Sobel Court Road and walked two blocks to Targee Street. § 87(2)(b) walked south on Targee Street and made a right turn onto Cliffside Avenue and a left turn onto Vanderbilt Avenue. § 87(2)(b) walked south on Vanderbilt Avenue and walked through the intersection where Van Duzer Street, and Vanderbilt Avenue converge into Richmond Road. § 87(2)(b) walked south on Richmond Road until he reached Mary Street where he was stopped by PO Pantaleo and PO Cataldo in their grey unmarked car.

PO Pantaleo exited the driver’s side and PO Cataldo exited the passenger side of the grey vehicle. PO Pantaleo approached § 87(2)(b) and told him, “Police,” and placed § 87(2)(b) against the side of the grey car. § 87(2)(b) was not injured by this motion and was not thrown against the car. § 87(2)(b) raised his hands in the air and PO Pantaleo turned § 87(2)(b) around so that he was facing a nearby utility pole. PO Pantaleo asked § 87(2)(b) “Do you have anything on you?” § 87(2)(b) told him he did not. PO Pantaleo told § 87(2)(b) that he observed him “enter a building.” § 87(2)(b) told PO Pantaleo, “You’re a fucking liar because I didn’t go into any building.”

PO Pantaleo felt around § 87(2)(b) s waist and simultaneously placed his hands inside the front right pocket of § 87(2)(b) s windbreaker. PO Pantaleo felt his house keys and removed his glove. PO Pantaleo felt the inside of the glove. PO Pantaleo then placed his hand in the left front pocket of § 87(2)(b) s windbreaker, removed the glove, and felt inside the glove. PO Pantaleo placed his hand inside § 87(2)(b) s front right pants pocket, removed the pepper spray

and placed it on the roof of the silver car. PO Pantaleo placed his hand inside § 87(2)(b)'s left front pocket, briefly removed the items and then replaced them inside his pocket. PO Pantaleo then felt § 87(2)(b)'s waistband and pulled the back of § 87(2)(b)'s waistband away from his body and looked inside the back of his pants. PO Pantaleo frisked § 87(2)(b)'s buttocks and groin area, then instructed § 87(2)(b) to slip his feet out of his sneakers and frisked each of his feet and ankles in turn. While PO Pantaleo frisked § 87(2)(b)'s feet, PO Cataldo frisked and searched § 87(2)(b)'s pockets in the same manner as PO Pantaleo. PO Pantaleo took the pepper spray and told § 87(2)(b) "I told you not to carry this around with you." PO Pantaleo requested § 87(2)(b)'s identification and § 87(2)(b) complied. PO Pantaleo wrote § 87(2)(b)'s information down in a notebook, released § 87(2)(b) and § 87(2)(b) walked away.

Witness: § 87(2)(b)

- § 87(2)(b) § 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

CCRB Testimony:

§ 87(2)(b) provided a statement to the CCRB at 560 Richmond Road in Staten Island on July 13, 2012. § 87(2)(b) recognized § 87(2)(b) in a photograph and stated that he is a regular customer. On June 27, 2012 at 7 a.m., § 87(2)(b) was working at § 87(2)(b). § 87(2)(b) stated that the restaurant opens at 7 a.m.. § 87(2)(b) could not recall exactly what time she arrived at the restaurant but estimated that she arrived soon after 7 a.m. At the time that § 87(2)(b) arrived at the restaurant, she did not observe any officers or civilians outside of the restaurant. § 87(2)(b) stated that she does not pay attention to the outside of the restaurant when she arrives in the morning as she is generally preoccupied by preparations inside. § 87(2)(b) stated that, soon after June 27, 2012, on a day that she could not specify, § 87(2)(b) went to § 87(2)(b) and spoke to her. § 87(2)(b) informed § 87(2)(b) that officers stopped him in front of § 87(2)(b) on June 27, 2012 and inquired whether she observed the incident and whether there was video footage of the incident available. § 87(2)(b) informed § 87(2)(b) that she did not observe the incident and that she was not sure if there was video footage available of the incident.

Field Work:

Field work was conducted in the vicinity of Richmond Road and Mary Street in Staten Island on July 13, 2012.

- **El Pollo Restaurant, 560 Richmond Road, Staten Island, NY, 10304.**

§ 87(2)(b) a § 87(2)(b) provided a statement and showed video footage to the undersigned investigator on July 13, 2012. § 87(2)(b) stated that he was not at 506 Richmond Road on June 27, 2012 at 7 a.m. § 87(2)(b) stated that he did not arrive at the location until approximately 11 a.m. Several days later, § 87(2)(b) appeared at the restaurant and requested to view any video footage capturing the incident. Cameras at El Pollo restaurant capture footage facing south, parallel to Richmond Road facing the corner of Mary Street and Richmond Road. The camera did not capture footage between 6 a.m. and 8 a.m. on June 27, 2012. The footage captured was blank white and no images, shadows, or indications of any activity are discernable. A photograph of the screen, indicating the date and time that the unusable footage was captured, was taken and added to the case file (encl. 25).

- **Richmond Mini Market, 568 Richmond Road, Staten Island, NY, 10304.**

§ 87(2)(b) and § 87(2)(b) at Richmond Mini Market, provided statements to the CCRB on July 13, 2012. § 87(2)(b) stated that all of the video cameras at Richmond Mini Market capture incidents inside the store. § 87(2)(b) was not at the store on June 27, 2012 at 7 a.m. § 87(2)(b) at Richmond Mini Market. § 87(2)(b) on June 27, 2012 at 7 a.m. § 87(2)(b) stated that he did not observe any interaction between § 87(2)(b) and officers. § 87(2)(b) refused to provide a sworn statement regarding the incident to the CCRB. The view from the interior of Richmond Mini Market to the outside of Richmond Mini Market is obscured by merchandise and decorations and a photograph was taken of the view from the interior of the store to the exterior, demonstrating the lack of visibility (encl. 26).

- **Coastal Gas Station and Grab and Go Mini Mart, corner of Van Duzer Street and Vanderbilt Avenue, Staten Island, NY, 10304.**

§ 87(2)(b) Coastal Gas Station and Grab and Go Mini Market, provided a statement to the CCRB on July 13, 2012. § 87(2)(b) stated that § 87(2)(b) on June 27, 2012 at 7 a.m. § 87(2)(b) stated that he did not observe any incidents in the vicinity of Richmond Road and Mary Street, approximately one block away from his store. § 87(2)(b) stated that all video cameras at the store are focused on the interior of the store and the gasoline pumps outside and that the cameras at the store do not capture any footage of incidents as far away as Richmond Road and Mary Street.

NYPD Statements:

Subject Officer: PO DANIEL PANTALEO

- *PO Daniel Pantaleo is a 27-year old white man who is 6'1" tall and 205 lbs. with brown hair and brown eyes.*
- *On June 27, 2012, PO Pantaleo was working with the Street Narcotics Enforcement Unit (SNEU) in the confines of the 120th Precinct from 5 a.m. to 1:35 p.m. PO Pantaleo was in plain clothes and was assigned to an unmarked grey Ford Taurus with PO Cataldo. PO Pantaleo was the operator.*

Memo Book:

At 6:45 a.m. PO Pantaleo stopped § 87(2)(b) DOB § 87(2)(b) at Richmond Road and Mary Street. At 6:50 a.m. PO Pantaleo marked the job 93Q (other report, no arrest) and generated a UF250 (encl. 28-30).

UF250:

§ 87(2)(b) was stopped by PO Pantaleo of the 120th PCT, TAX ID 942805 for suspected criminal possession of marijuana in the vicinity of Richmond Road and Mary Street on June 27, 2012 at 6:45 a.m. § 87(2)(b) was observed for five minutes and stopped for five minutes. PO Pantaleo noted actions indicative of engaging in drug transaction. PO Pantaleo explained the reason for the stop. § 87(2)(b) was not arrested or issued a summons. PO Pantaleo was not in uniform but identified himself as an officer verbally and with a displayed shield. § 87(2)(b) was frisked due to furtive movements and for refusing to comply with the officer's directions. The UF250 indicated that § 87(2)(b) was not searched and no weapon or contraband was found. PO Pantaleo noted that the area has a high incidence of reported offense of type under investigation and that the time of day, day of week, season corresponded to reports of criminal activity (encl. 31-32).

CCRB Testimony:

PO Pantaleo was interviewed by the CCRB on October 2, 2012 (encl. 27-35). On June 27, 2012, at 6:45 a.m. PO Pantaleo and PO Cataldo were patrolling the vicinity of Park Hill Avenue between Osgood Avenue and Sobel Court. While he drove northbound on Park Hill Avenue, PO Pantaleo observed, through windows, an individual identified by the investigation as § 87(2)(b) § 87(2)(b) lingering and pacing inside the lobby of 225 Park Hill Avenue. 225 Park Hill Avenue is a “Section Eight” building, a federally funded housing project similar to NYCHA, with clearly marked signs prohibiting trespassing and is enrolled in the trespass affidavit program (encl. 44A). PO Pantaleo was aware of a large number of crimes inside 225 Park Hill Avenue, including shootings, stabbings, robberies, burglaries and drug sales. PO Pantaleo stated that he was involved in arrests at 225 Park Hill Avenue within weeks prior to June 27, 2012. PO Pantaleo has also been involved in the execution of search warrants for drugs inside of 225 Park Hill Avenue.

When he initially observed § 87(2)(b) § 87(2)(b) inside of 225 Park Hill Avenue, PO Pantaleo did not recognize § 87(2)(b) § 87(2)(b) and did not know what he was doing inside the building. PO Pantaleo did not know whether § 87(2)(b) § 87(2)(b) lived at 225 Park Hill Avenue. PO Pantaleo suspected that § 87(2)(b) § 87(2)(b) was trespassing inside of 225 Park Hill Avenue in order to commit a crime such as a drug transaction, burglary, or robbery. PO Pantaleo did not observe § 87(2)(b) § 87(2)(b) enter 225 Park Hill Avenue. PO Pantaleo did not know how § 87(2)(b) § 87(2)(b) gained access to 225 Park Hill Avenue but stated that the front door lock is often broken. PO Pantaleo did not know whether the front door lock of 225 Park Hill Avenue was broken at the time he observed § 87(2)(b) § 87(2)(b) inside the lobby. There were no additional individuals inside the lobby of 225 Park Hill Avenue and PO Pantaleo did not observe § 87(2)(b) § 87(2)(b) interact with any individuals there. PO Pantaleo did not observe any individuals enter 225 Park Hill Avenue while § 87(2)(b) § 87(2)(b) was in the lobby. After PO Pantaleo observed § 87(2)(b) § 87(2)(b) inside 225 Park Hill Avenue, he drove approximately one building away from 225 Park Hill Avenue and made a U-turn on Park Hill Avenue. PO Pantaleo estimated that this process took approximately two minutes.

After PO Pantaleo made the U-turn on Park Hill Avenue, PO Pantaleo observed § 87(2)(b) § 87(2)(b) casually walk out of 225 Park Hill Avenue without looking around himself at anyone or anything. PO Pantaleo and PO Cataldo were approximately one building away from § 87(2)(b) § 87(2)(b) when he left the building. PO Pantaleo could not be sure whether § 87(2)(b) § 87(2)(b) observed officers when he exited 225 Park Hill Avenue. § 87(2)(b) § 87(2)(b) walked southbound on Park Hill Avenue toward Sobel Court. There were additional individuals walking on the sidewalk in the vicinity of 225 Park Hill Avenue but § 87(2)(b) § 87(2)(b) did not interact with any of these individuals. PO Pantaleo and PO Cataldo did not use lights and sirens to stop § 87(2)(b) § 87(2)(b) immediately because they were driving an unmarked car and did not wish to reveal themselves as police officers in an area that they were actively patrolling. § 87(2)(b) § 87(2)(b) turned right onto Sobel Court and then turned left onto Targee Street. PO Pantaleo and PO Cataldo followed § 87(2)(b) § 87(2)(b) and made a right turn onto Targee Street as it was a one-way street. PO Pantaleo observed § 87(2)(b) § 87(2)(b) make a right turn off Targee Street onto Ellington Street and determined that § 87(2)(b) § 87(2)(b) would exit Ellington Street at Richmond Road. PO Pantaleo lost sight of § 87(2)(b) § 87(2)(b) for less than one minute while he drove around the block to meet § 87(2)(b) § 87(2)(b) at the end of Ellington Street. PO Pantaleo made a left turn onto Vanderbilt Avenue and observed § 87(2)(b) § 87(2)(b) turning left off of Ellington Street onto Richmond Road. PO Pantaleo could not recall exactly how much time elapsed while he followed § 87(2)(b) § 87(2)(b) walked casually and made no actions indicative of criminal activity while he walked.

PO Pantaleo and PO Cataldo caught up with § 87(2)(b) § 87(2)(b) at the intersection of Richmond Road and Mary Street. PO Pantaleo stopped the patrol car and exited the driver’s side with his shield displayed. PO Pantaleo approached § 87(2)(b) § 87(2)(b) from the side and, from approximately three to four feet away, told him, “Excuse me, sir, police officer, can you please stop?” § 87(2)(b) § 87(2)(b)

§ 87(2)(b) turned and faced PO Pantaleo, threw his hands in the air and, in a raised voice, said, “Aw, come on, again? You can’t do this.” After § 87(2)(b) turned to face him, PO Pantaleo observed a bulge in the front right pocket of § 87(2)(b)’s jeans. PO Pantaleo described the bulge as a rectangle, slightly less than five inches long and one to two inches wide. PO Pantaleo stated that the bulge appeared hard and was approximately the size and shape of a harmonica. PO Pantaleo stated that he believed the bulge was a pocket knife. PO Pantaleo did not observe a clip, a knife handle, or a point. PO Pantaleo did not ask § 87(2)(b) what the object was because he did not wish to reveal immediately that he believed § 87(2)(b) was armed.

PO Pantaleo immediately frisked § 87(2)(b)’s front right pocket, his hips, and his waistband area. PO Pantaleo did not observe any bulges around § 87(2)(b)’s waistband, but stated that he frisked his waistband because it was the most likely place for individuals to carry weapons. When PO Pantaleo frisked the bulge at § 87(2)(b)’s front right pocket, he felt that it was not a hard object but that it had a soft texture that PO Pantaleo determined was a wallet. PO Pantaleo did not place his hand in any of § 87(2)(b)’s pockets or frisk any additional areas of § 87(2)(b)’s body in addition to his front right pocket, hips, and waistband. PO Pantaleo said that the angle from which he viewed the bulge or the manner in which the wallet sat on § 87(2)(b)’s leg caused only a portion of the bulge caused by the wallet to be visible. PO Pantaleo feared for his safety to the extent that any encounters with individuals on the street cause him to fear for his safety. § 87(2)(b) did not make any movements toward the bulge at his front right pocket, but threw his hands in the air in an angry gesture and raised his voice and told PO Pantaleo, “You can’t do this.”

PO Pantaleo requested that § 87(2)(b) calm down and not yell. § 87(2)(b) complied after one or two instructions to do so. PO Pantaleo did not instruct § 87(2)(b) to keep his hands still. PO Pantaleo requested that § 87(2)(b) approach his patrol car in order to move him safely away from the intersection. § 87(2)(b) complied but was angry. PO Pantaleo could not recall exactly what § 87(2)(b) said but stated that he did not curse. PO Pantaleo asked § 87(2)(b) if he had identification and § 87(2)(b) told him he did and provided his identification to PO Pantaleo.

When PO Pantaleo observed § 87(2)(b)’s name, he recognized him from a previous incident months before when his partner arrested § 87(2)(b) for possession of marijuana. PO Pantaleo asked § 87(2)(b) what he was doing inside 225 Park Hill Avenue. § 87(2)(b) told PO Pantaleo that he was waiting in the lobby of 225 Park Hill Avenue because he knows a female who lives in the building. § 87(2)(b) could not recall the name of the female. § 87(2)(b) stated that he was in the lobby in order to meet the unidentified female, that he called her, but after she did not answer, he decided to go home and left 225 Park Hill Avenue. PO Pantaleo explained to § 87(2)(b) that people enter those buildings and linger “for certain reasons” and that he and PO Cataldo stopped him in order to ensure everyone in the area was safe. By this time, § 87(2)(b) had calmed down and PO Pantaleo told him that he appreciated his cooperation and released him.

PO Cataldo had no physical interaction with § 87(2)(b). PO Pantaleo stated that § 87(2)(b) did not have a can of pepper spray during the incident and, if § 87(2)(b) had a can of pepper spray, he would have been arrested.

Subject Officer: PO CHRISTIAN CATALDO

- *PO Christian Cataldo is a § 87(2)(b).*
- *On June 27, 2012, PO Cataldo was working SNEU in the confines of the 120th Precinct from 5:00 a.m. to 1:35 p.m. PO Cataldo was in plain clothes and was assigned to an unmarked grey Ford Taurus with PO Pantaleo. PO Cataldo was the recorder.*

Memo Book:

PO Cataldo had no memo book entries regarding the incident (encl. 37-38).

CCRB Testimony:

PO Cataldo was interviewed by the CCRB on October 12, 2012 (encl. 36-40). On June 27, 2012, PO Cataldo and PO Pantaleo were conducting patrol in the vicinity of 225 Park Hill Avenue when PO Cataldo observed § 87(2)(b) walk toward 225 Park Hill Avenue. PO Cataldo stated that 225 Park Hill Avenue is known for the criminal activity that occurs inside. PO Cataldo has personally been involved in hundreds of arrests inside 225 Park Hill Avenue for various charges including narcotics, trespassing, robberies, and burglaries. PO Cataldo estimated that the last arrest he made inside 225 Park Hill Avenue was within one month of his statement at the CCRB in the rear of the building. § 87(2)(b) walked toward 225 Park Hill Avenue for approximately five minutes while PO Cataldo watched him. There was nothing unusual about the manner in which § 87(2)(b) walked. § 87(2)(b) did not interact with any individuals or look around him. PO Cataldo did not know who § 87(2)(b) was or whether he lived inside 225 Park Hill Avenue when he observed him walking toward the building. PO Cataldo did not recognize § 87(2)(b) from any previous encounters at any time during the incident. § 87(2)(b) entered 225 Park Hill Avenue through the open front door. § 87(2)(b) did not ring any buzzer or use a key to enter 225 Park Hill Avenue. PO Cataldo stated that the doors to 225 Park Hill Avenue do not lock. PO Cataldo was not sure whether the lock on the door of 225 Park Hill Avenue was broken, or whether the door simply does not lock. PO Cataldo observed § 87(2)(b) enter the interior of 225 Park Hill Avenue and walk into a hallway where he lost sight of him. There were additional individuals inside the lobby of 225 Park Hill Avenue but § 87(2)(b) did not interact with them. PO Cataldo did not notice how many additional individuals were in the lobby. PO Cataldo could not provide a reason why he did not follow § 87(2)(b) inside 225 Park Hill Avenue.

PO Cataldo stated that a regular practice of individuals engaged in drug transactions at 225 Park Hill Avenue is to enter the front door of 225 Park Hill Avenue, engage in a drug transaction, and then exit out of the rear of 225 Park Hill Avenue at Bowen Street. At the time that § 87(2)(b) entered 225 Park Hill Avenue, PO Cataldo did not suspect him of any criminal activity. However, because he and PO Pantaleo were conducting patrol, they drove to a rear exit of 225 Park Hill Avenue at Bowen Street in order to determine whether § 87(2)(b) would exit the building quickly. PO Cataldo and PO Pantaleo waited at the rear exit of 225 Park Hill Avenue for approximately one minute and then drove back to the front entrance on Park Hill Avenue where they observed § 87(2)(b) exit the front door of 225 Park Hill Avenue after being inside for approximately five minutes. § 87(2)(b) left by himself. PO Cataldo did not observe § 87(2)(b) interact with anyone in the lobby as he was leaving 225 Park Hill Avenue, or anyone outside after he exited 225 Park Hill Avenue. PO Cataldo did not observe any change in § 87(2)(b)'s demeanor from when he entered 225 Park Hill Avenue. At the point when § 87(2)(b) exited 225 Park Hill Avenue, PO Cataldo suspected § 87(2)(b) of criminal trespassing or a possible drug transaction, but not of a violent crime.

§ 87(2)(b) walked on Sobel Court toward Richmond Road and Mary Street. PO Cataldo stated that, because there were one-way streets and traffic obstructions, they took a circuitous driving route when they followed § 87(2)(b). When asked why they did not stop § 87(2)(b) before he reached Richmond Road and Mary Street, PO Cataldo stated that he wanted to get some distance away from 225 Park Hill Avenue before he stopped § 87(2)(b) so as not to alert individuals in the area who might be engaging in criminal activity of any police presence. While they followed § 87(2)(b) PO Cataldo lost sight of him for approximately one minute. During

Civilians CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) (encl. 8).

Subject Officers CCRB History

- PO Daniel Pantaleo has been a member of the service for six years and there are no substantiated CCRB allegations against him (encl. 6).
- PO Christian Cataldo has been a member of the service for six years and there are no substantiated CCRB allegations against him. (encl. 7).

Conclusion

Identification of Subject Officers

The UF250 generated regarding the incident was prepared by PO Pantaleo and he acknowledged that he interacted with § 87(2)(b) at the time of the incident and recognized him from a previous encounter. PO Cataldo acknowledged that he interacted with § 87(2)(b) distinguished between PO Pantaleo and PO Cataldo by stating that he recognized PO Pantaleo from a previous encounter and did not recognize PO Cataldo.

Investigative Findings and Recommendations

Allegation A- Abuse of Authority: PO Daniel Pantaleo stopped § 87(2)(b)

Allegation B- Abuse of Authority: PO Christian Cataldo stopped § 87(2)(b)

It is undisputed that PO Pantaleo and PO Cataldo stopped § 87(2)(b) in the vicinity of Richmond Road and Mary Street in Staten Island. § 87(2)(b), § 87(2)(g). It is not disputed that § 87(2)(b) did not interact with any individuals besides PO Pantaleo and PO Cataldo during the incident. § 87(2)(b), § 87(2)(g).

§ 87(2)(b) stated that he stopped inside a deli at Targee Street and Vanderbilt Street and lingered in hope of seeing another friend. He stated that he did not enter any buildings on Park Hill Avenue.

PO Pantaleo stated that he observed § 87(2)(b) inside the lobby of 225 Park Hill Avenue, a Section Eight housing development with clearly marked signs prohibiting trespassing. At the time, PO Pantaleo did not recognize § 87(2)(b) from any previous encounters, did not know how § 87(2)(b) gained access to 225 Park Hill Avenue, and did not know whether § 87(2)(b) lived at 225 Park Hill Avenue. § 87(2)(b) exited 225 Park Hill Avenue after being inside the lobby for approximately two minutes. He was calm and did not look around himself and did not interact with any individuals inside or outside of 225 Park Hill Avenue. At the time § 87(2)(b) exited 225 Park Hill Avenue, PO Pantaleo suspected him of trespassing and additional unspecific criminal activity, including drug transactions, burglaries, and robberies based on his personal experience making arrests inside the building. PO Pantaleo and PO Cataldo followed § 87(2)(b) to Richmond Road and Mary Street where PO Pantaleo exited the patrol car with his shield displayed, approached § 87(2)(b) and told him, "Excuse me, sir, police officer, can you please stop." To which § 87(2)(b) replied, "Aw, come on, again? You can't do this."

PO Cataldo stated that he observed § 87(2)(b) enter 225 Park Hill Avenue through the open front door and that he did not use a key or use a buzzer to open the door. PO Cataldo stated that, at the time § 87(2)(b) entered 225 Park Hill Avenue, he did not suspect him of criminal activity. When § 87(2)(b) exited 225 Park Hill Avenue within minutes of entering, however, PO Cataldo suspected § 87(2)(b) of trespassing for the purpose of conducting drug

transactions. § 87(2)(b) did not interact with any individuals or look around himself at any time while PO Cataldo observed him. PO Cataldo stated that there was nothing unusual about the manner in which § 87(2)(b) entered 225 Park Hill Avenue and that his demeanor had not changed when he left 225 Park Hill Avenue. § 87(2)(b) then walked to Richmond Road and Mary Street where PO Pantaleo exited the patrol car, approached § 87(2)(b) and instructed him to stop.

An officer must have a reasonable suspicion that a person has committed, is committing, or is about to commit a crime to stop that person. People v. DeBour, 40 N.Y.2d 210, 223 (1976) (encl. 1A-1L). An officer may not question or stop an individual solely because he or she is leaving a trespass affidavit building. People v. Almonte, 30 Misc. 3d 1234A (Sup. Ct. Bronx Cty. 2011). (encl. 2A-2C).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegation C- Abuse of Authority: PO Daniel Pantaleo frisked § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

It is undisputed that PO Pantaleo frisked § 87(2)(b) in the vicinity of Richmond Road and Mary Street in Staten Island solely because he observed a bulge in § 87(2)(b)'s pocket.

PO Pantaleo stated that he observed a bulge in the front right pocket of § 87(2)(b)'s jeans he described as a rectangle, slightly less than five inches long and one to two inches wide that he believed was a pocket knife. PO Pantaleo did not observe a clip, a knife handle, or a point. PO Pantaleo immediately frisked § 87(2)(b)'s front right pocket, his hips, and his waistband area. PO Pantaleo did not observe any bulges around § 87(2)(b)'s waistband, but stated that he frisked his waistband because it was the most likely place for individuals to carry weapons. The frisk revealed that the bulge in § 87(2)(b)'s pocket was not a hard object but had a soft texture that PO Pantaleo determined was a wallet. PO Pantaleo speculated that the angle from which he viewed the bulge or the manner in which the wallet sat on § 87(2)(b)'s leg resulted in only portion of the wallet bulging. PO Pantaleo feared for his safety to the extent that any encounters with individuals on the street cause him to fear for his safety. § 87(2)(b) did not make any movements toward the bulge at his front right pocket. PO Pantaleo gave no commands to § 87(2)(b) not to move his hands.

PO Cataldo did not observe the bulge at § 87(2)(b)'s pocket and could not articulate any reason to believe that § 87(2)(b) was armed except his presence in an area where individuals carry weapons. PO Cataldo observed PO Pantaleo frisk § 87(2)(b)'s pant pockets and

waistband. PO Cataldo could not recall any unusual physical behavior by § 87(2)(b) PO Cataldo feared for his safety due to his geographical proximity to locations where individuals carry weapons.

In DeBour, the Court distinguished a pocket bulge from a waistband bulge stating that a pocket bulge can be caused by any number of innocuous objects. DeBour, at 221 (encl. 1A-1L). An officer must have proof of a describable object or conduct that provides a reasonable basis to believe that an individual possesses a weapon to frisk or search such person. People v. Prochilo, 41 N.Y.2d 759, 761 (1977) (encl. 3A-3D). If an officer suspects that an individual possesses a knife, in order to stop and frisk such individual, the detaining officer must possess specific and articulable facts from which he inferred that the individual was carrying a gravity knife as opposed to a lawful knife such as a pocket knife. People v. Vargas, 2011 NY Slip Op 8457; (1st Dept., 2011). (encl. 4A-4B).

§ 87(2)(b), § 87(2)(g)

Allegation D- Abuse of Authority: PO Daniel Pantaleo searched § 87(2)(b)

Allegation E- Abuse of Authority: PO Christian Cataldo frisked § 87(2)(b)

Allegation F- Abuse of Authority: PO Christian Cataldo searched § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b) stated that PO Pantaleo searched him concurrent with the frisk and discovered a can of NYPD issue pepper spray which he confiscated. PO Cataldo then frisked and searched § 87(2)(b) in the same manner as PO Pantaleo.

PO Pantaleo denied searching § 87(2)(b) and stated that if he had found § 87(2)(b) in possession of a can of pepper spray he would have arrested him for criminal possession of a weapon. The UF250 indicated that § 87(2)(b) was not searched during the incident.

PO Cataldo denied having any physical contact with § 87(2)(b) and denied that PO Pantaleo searched § 87(2)(b) PO Cataldo stated that if § 87(2)(b) was in possession of pepper spray he would have been arrested for criminal possession of a weapon.

§ 87(2)(b), § 87(2)(g)

a § 87(2)(b), § 87(2)(g) [Redacted]
[Redacted]
[Redacted]
[Redacted]
§ 87(2)(b), § 87(2)(g) [Redacted]
[Redacted]
[Redacted]
§ 87(2)(g), § 87(4-b) [Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

Team: **4**

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date