

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Arie Braizblot	Team: Team # 2	CCRB Case #: 201209018	<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) Thursday, 07/12/2012 11:30 AM	Location of Incident: § 87(2)(b)	Precinct: 120	18 Mo. SOL 1/12/2014	EO SOL 1/12/2014	
Date/Time CV Reported Fri, 07/13/2012 2:55 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 07/13/2012 2:55 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Gregory Howard	18811	941042	120 PCT
2. SGT Ignazio Conca	00906	922140	120 PCT
3. POM Stephen Dimassa	23601	941203	120 PCT
4. POM Daniel Pantaleo	13293	942805	120 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Timothy Lake	14127	936903	120 PCT
2. POM John Fahim	31415	941726	120 PCT
3. POM Frank Muirhead	20981	945260	120 PCT
4. POM Steven Lopez	24353	943498	120 PCT
5. POM Christian Cataldo	04133	939985	120 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Daniel Pantaleo	Abuse: PO Daniel Pantaleo stopped the vehicle in which § 87(2)(b) was an occupant.	§ 87(2)(g)
B.POM Daniel Pantaleo	Abuse: PO Daniel Pantaleo searched the vehicle in which § 87(2)(b) was an occupant.	§ 87(2)(g)
C.POM Stephen Dimassa	Abuse: PO Stephen Dimassa searched the vehicle in which § 87(2)(b) was an occupant.	§ 87(2)(g)
§ 87(4-b), § 87(2)(g)	§ 87(2)(b)	§ 87(2)(g)
§ 87(4-b), § 87(2)(g)	§ 87(2)(b)	§ 87(2)(g)
§ 87(2)(g)	§ 87(2)(b)	§ 87(2)(g)

Case Summary

On July 13, 2012, § 87(2)(b) called the CCRB and filed the following complaint. On July 12, 2012, at approximately 11:30 a.m., officers from the 120th Precinct's Street Narcotics Enforcement Unit (SNEU) stopped § 87(2)(b) in his vehicle. The following allegations resulted:

- **Allegation A – Abuse of Authority: PO Daniel Pantaleo stopped the vehicle in which § 87(2)(b) was an occupant.**
- **Allegation B – Abuse of Authority: PO Daniel Pantaleo searched the vehicle in which § 87(2)(b) was an occupant.**
- **Allegation C – Abuse of Authority: PO Stephen Dimassa searched the vehicle in which § 87(2)(b) was an occupant.**

§ 87(2)(g)

- § 87(4-b), § 87(2)(g)

§ 87(2)(b) rejected mediation.

Results of Investigation

Civilian Statement

Complainant/Victim: § 87(2)(b)

- § 87(2)(b)

CCRB Testimony

On July 20, 2012, § 87(2)(b) provided a telephone statement to the CCRB (encl. 11). § 87(2)(b) was interviewed at the CCRB on August 1, 2012 (encl. 12A-E). His testimony is summarized below with all discrepancies noted.

On July 12, 2012, at approximately 11:45 a.m., § 87(2)(b) noticed a black sedan parked two houses from his home, located at § 87(2)(b) in Staten Island. § 87(2)(b) exited his house with an unsealed black bag filled with garbage and observed the same black sedan driving back and forth on § 87(2)(b), a cross street of § 87(2)(b). § 87(2)(b) placed the garbage bag inside his trunk and drove his silver Infinity south on § 87(2)(b), turned § 87(2)(b) and § 87(2)(b), where the black sedan passed him in the opposite direction. § 87(2)(b) made several additional turns, saw the black sedan driving behind him

and pulled over at South Avenue and Arlington Place. The black sedan pulled behind § 87(2)(b) vehicle and its siren sounded.

An unmarked burgundy sedan stopped behind the black sedan. PO1, PO2 and PO3, identified by the investigation as PO Pantaleo, PO Dimassa and Sgt. Ignazio Conca respectively, exited the black sedan and PO4 and PO5, identified by the investigation as PO Gregory Howard and PO Timothy Lake respectively, exited the burgundy vehicle. PO Pantaleo was described as a 5'8" tall white man in plainclothes, light complexion, in his thirties, average build, with dark brown hair and a beard. PO Dimassa was described as a 6'1" tall white man in plainclothes, slim build, approximately 28 years old, with a light complexion and light brown hair. Sgt. Conca was described as a 5'5" tall white man in plainclothes, heavy build, in his forties, medium complexion with black and gray hair. PO Howard was described as a 5'3" tall black man in plainclothes, muscular build, in his late forties. PO Lake was described as an approximately 5'7" tall white man in plainclothes, in his late forties, who was balding with a muscular build.

PO Pantaleo and Sgt. Conca approached § 87(2)(b) driver side and PO Dimassa approached the passenger side. PO Pantaleo asked for § 87(2)(b) license and registration and he handed the documents to PO Pantaleo and asked why he was pulled over. PO Pantaleo did not respond and used his radio to review § 87(2)(b) documents. PO Pantaleo then asked § 87(2)(b) to exit the vehicle and he complied. § 87(2)(b) walked to the front of the black sedan, where he had an unobstructed view of PO Pantaleo but had difficulty seeing PO Dimassa. Sgt. Conca, PO Howard, and PO Lake stood with § 87(2)(b). PO Pantaleo asked § 87(2)(b) if he had drugs or weapons in his vehicle and § 87(2)(b) said no. PO Pantaleo then entered § 87(2)(b) driver's side and searched the front and rear seats, eyeglasses holder, console and visor. PO Dimassa entered the passenger side and searched the seats. PO Dimassa held documents that were previously in § 87(2)(b) glove compartment but § 87(2)(b) did not see PO Dimassa open the glove compartment. PO Pantaleo pulled the lever to open § 87(2)(b) trunk and asked § 87(2)(b) if he had any bodies in the trunk and § 87(2)(b) said no. PO Pantaleo then opened the trunk and searched inside, while PO Dimassa continued to search inside the vehicle. PO Pantaleo looked inside the garbage bag and closed the trunk. PO Pantaleo wrote down § 87(2)(b) information in his memo book, did not issue him a summons and told § 87(2)(b) that he could leave. § 87(2)(b) then left in his vehicle.

NYPD Statements:

Subject Officer: PO DANIEL PANTALEO

- *PO Pantaleo, a 5'11" tall white man, who weighs 195 pounds with brown hair and blue eyes, was § 87(2)(b) old at the time of the incident.*
- *On July 12, 2012, PO Pantaleo worked from 6 a.m. to 2:35 p.m. and was assigned to SNEU. PO Pantaleo was dressed in plainclothes, worked with PO Dimassa and was assigned to an unmarked vehicle, a black Ford fusion, number 1401.*

Memo Book (encl. 13A-B)

At 11:30 a.m., PO Pantaleo stopped § 87(2)(b) vehicle at South Avenue and Arlington Place. § 87(2)(b) date of birth is noted. At 11:35 a.m., PO Pantaleo prepared a stop and frisk report.

Handwritten Stop and Frisk Report (encl. 13C-D)

The handwritten report prepared by PO Pantaleo indicated that § 87(2)(b) was suspected of grand larceny auto. The circumstances leading to the stop were a description and furtive movements. The report notes that § 87(2)(b) was frisked for making furtive movements but he

was not searched. Additional factors for the stop included that the area had a high incidence of grand larceny auto, the time of day, day of week, and season corresponded to criminal activity, and change of direction at the sight of officers or flight.

CCRB Statement

PO Pantaleo was interviewed at the CCRB on May 21, 2013 (encl. 13A-I). On July 12, 2012, at approximately 11:30 a.m., PO Pantaleo, his vehicle's operator, and PO Dimassa drove past § 87(2)(b), a § 87(2)(b), and observed § 87(2)(b) black sedan drive north on § 87(2)(b) and turn § 87(2)(b) through his rearview mirror. PO Pantaleo did not see § 87(2)(b) enter his vehicle and did not respond to any jobs or work on § 87(2)(b) prior to this observation.

PO Pantaleo followed § 87(2)(b) vehicle and stopped him at South Avenue and Arlington Place for the traffic violation. PO Pantaleo radioed to Sgt. Conca, PO Lake, and PO Howard to inform them that he performed a vehicle stop at South Avenue and Arlington Place. Sgt. Conca, PO Lake and PO Howard arrived less than one minute later. PO Pantaleo then exited his vehicle and approached § 87(2)(b) driver's side while PO Dimassa walked to the passenger side. As PO Pantaleo approached § 87(2)(b) rear tire, he observed § 87(2)(b) move his hands in front of his waist, reach down and bend forward. PO Pantaleo feared that § 87(2)(b) movements were indicative of concealing a weapon or dangerous object. When PO Pantaleo arrived at § 87(2)(b) driver's side, his hands were visible near the steering wheel. PO Pantaleo identified himself as an officer and asked § 87(2)(b) to exit the vehicle.

§ 87(2)(b) exited his vehicle, walked toward its rear and stood next to PO Howard. Sgt. Conca and PO Lake also stood nearby. PO Pantaleo informed § 87(2)(b) that the officers observed him driving in the wrong direction on § 87(2)(b). PO Pantaleo then searched the reachable areas near the front seat, including under the chair, floor mat, steering wheel and the pocket at the bottom of the door. PO Pantaleo did not search the passenger seat or the rear seats, where he observed a full cotton laundry bag. PO Pantaleo did not see additional bags in the vehicle and no officer looked inside the laundry bag or questioned § 87(2)(b) about its contents. No compartments, including the trunk, were opened at any time. PO Pantaleo did not question § 87(2)(b) prior to the search and recovered no contraband. PO Pantaleo did not observe any additional officers search the vehicle.

During the incident, Sgt. Conca did not issue PO Pantaleo any instructions or discuss a more extensive vehicle search. PO Pantaleo asked § 87(2)(b) for his ID, registration and insurance documents and § 87(2)(b) provided them but did not return to his vehicle to retrieve the documents. PO Pantaleo, who used his discretion not to issue § 87(2)(b) a summons, released § 87(2)(b) and he left.

PO Pantaleo reviewed his stop and frisk report and indicated that § 87(2)(b) vehicle fit a description because his vehicle was black, a common color for stolen vehicles. PO Pantaleo stated that at the time of the incident, there was a high incidence of black vehicles being stolen and that vehicle break-ins are common in the area and thieves ignore traffic laws upon their escape. In addressing the additional circumstances leading to the stop, PO Pantaleo stated that the area has a high incidence rate of grand larceny auto and that vehicle thefts are common in the summer. PO Pantaleo acknowledged that he made two errors on the report and clarified that § 87(2)(b) did not change directions or flee upon seeing the officers and was not frisked.

Subject Officer: SGT. IGNAZIO CONCA

- *Sgt. Conca, a 5'10" tall white man, who weighs 215 pounds with brown hair and brown eyes, was § 87(2)(b) old at the time of the incident.*
- *On July 12, 2012, Sgt. Conca worked from 6 a.m. to 2:57 p.m. and was assigned to SNEU. Sgt. Conca was dressed in plainclothes and worked with PO Steven Lopez and PO Christian Cataldo in a marked prisoner van, number 8523.*

Memo Book (encl. 15A-C)

Sgt. Conca had no memo book entries for this incident.

CCRB Statement

Sgt. Conca was interviewed at the CCRB on June 21, 2013 (encl. 15A-F). On July 12, 2012, at approximately 11:30 a.m., PO Pantaleo radioed to Sgt. Conca, who sat in a prisoner van with two prisoners from an earlier arrest by PO Dimassa, PO Lopez and PO Cataldo, informed him that he was going to perform a vehicle stop and provided his location but did not request assistance.

Sgt. Conca went to the location, arriving a few minutes after the radio call. Sgt. Conca observed PO Dimassa and PO Pantaleo standing on the sidewalk next to the passenger side of § 87(2)(b) vehicle. Sgt. Conca did not remember if the doors to the vehicle were open or if § 87(2)(b) who interacted with PO Pantaleo, was inside the vehicle. Sgt. Conca did not see § 87(2)(b) trunk open.

PO Lopez and PO Cataldo remained inside the prisoner van to guard the prisoners. Sgt. Conca exited the van, approached PO Pantaleo, asked him if everything was alright and PO Pantaleo said, "Yes". PO Pantaleo and PO Dimassa did not discuss the vehicle stop with Sgt. Conca. PO Pantaleo did not discuss any furtive movements with Sgt. Conca. PO Pantaleo asked § 87(2)(b) for his information and wrote it down.

Sgt. Conca did not see officers enter § 87(2)(b) vehicle, search the vehicle or open any compartments. Sgt. Conca did not see a garbage bag in § 87(2)(b) vehicle or hear any conversation about a garbage bag. PO Pantaleo finished writing down § 87(2)(b) information and § 87(2)(b) left in his vehicle. The officers then left the scene.

Sgt. Conca reviewed the stop and frisk report and indicated that it reflected PO Pantaleo observations, which PO Pantaleo did not discuss with him.

Subject Officer: PO GREGORY HOWARD

- *PO Howard, a 5'5" tall black man who weighs 225 pounds with black hair and brown eyes, was § 87(2)(b) old at the time of the incident.*
- *On July 12, 2012, PO Howard worked from 6 a.m. to 2:35 p.m. and was assigned to SNEU. PO Howard was dressed in plainclothes, worked with PO Lake and was assigned to an unmarked silver sedan.*

Memo Book (encl. 17A-B)

PO Howard had no memo book entries for this incident.

CCRB Statement

PO Howard was interviewed at the CCRB on July 10, 2013 (encl. 17A-E). On July 12, 2012, at approximately 11:30 a.m., PO Pantaleo radioed that he had a vehicle stop on Arlington Place and South Avenue and PO Howard and PO Lake, who were around the corner, drove to the location.

PO Howard saw § 87(2)(b) standing toward the rear of his silver or gray vehicle. Three or four years prior, PO Howard responded to an incident in which § 87(2)(b) dog was shot by an officer and § 87(2)(b) was arrested. PO Pantaleo searched around § 87(2)(b) driver seat but did not search any other area of § 87(2)(b) vehicle. However, PO Howard later stated that he did not recall whether PO Pantaleo looked elsewhere inside § 87(2)(b) vehicle. PO Howard then claimed that he and PO Lake had their backs turned to the vehicle as he spoke to § 87(2)(b) and he could not see where PO Pantaleo searched or see inside § 87(2)(b) vehicle. No additional officer searched the driver's side. PO Dimassa stood next to § 87(2)(b) vehicle but PO Howard did not recall his actions during the incident. PO Howard was unaware of the circumstances leading to the search and did not speak to PO Pantaleo or PO Dimassa. PO Howard instead stood next to PO Lake and spoke with § 87(2)(b) about the incident involving his dog.

PO Howard did not see § 87(2)(b) trunk open, hear a trunk open or see PO Pantaleo go to passenger side of § 87(2)(b) vehicle. PO Howard did not hear any officer question § 87(2)(b) and there was no discussion about a bag inside his vehicle. PO Howard did not observe a bag inside § 87(2)(b) vehicle.

PO Pantaleo held § 87(2)(b) ID in his hand and wrote down his information but PO Howard did not see § 87(2)(b) hand PO Pantaleo his ID. § 87(2)(b) re-entered his vehicle and left the scene. PO Pantaleo told PO Howard that he stopped § 87(2)(b) for driving against the flow of traffic on a one-way road. The officers re-entered their vehicles and left.

Subject Officer: PO STEPHEN DIMASSA

- *PO Dimassa, a 6' tall white man, who weighs 205 pounds and is bald with green eyes, was § 87(2)(b) old at the time of the incident.*
- *On July 12, 2012, PO Dimassa worked from 6 a.m. to 5:45 p.m. and was assigned to SNEU. PO Dimassa was dressed in plainclothes, worked with PO Pantaleo and was assigned to an unmarked black vehicle, number 1401.*

Memo Book (encl. 19A-C)

PO Dimassa had no memo book entries for this incident.

CCRB Statement

PO Dimassa was interviewed at the CCRB on June 26, 2013 (encl. 19A-E). PO Dimassa had no recollection of the incident, despite receiving a brief synopsis and viewing a photograph of § 87(2)(b) who he did not recognize, and the stop and frisk report.

Additional Officers Interviewed

PO John Fahim, who performed a driver's license check on § 87(2)(b) was interviewed at the CCRB on March 29, 2013 (encl. 23A-D). PO Frank Muirhead, who matched the description of a subject officer, was interviewed at the CCRB on April 2, 2013 (encl. 24A-D). Both officers stated that they were at the stationhouse during the incident and their activity logs corroborated their whereabouts during the incident.

PO Steven Lopez and PO Christian Cataldo were interviewed at the CCRB on July 10, 2013 (encl. 21A-D and 22A-D). PO Lopez and PO Cataldo stated that they drove Sgt. Conca to the vicinity of the location and remained in their vehicle but could not see the incident location from where the vehicle was positioned.

- PO Dimassa has been a member of the service for seven years and there are three substantiated CCRB allegations against him (encl. 4).
 - In CCRB case number 201004027, the Board substantiated a vehicle stop, a vehicle search and a frisk and recommended charges. The NYPD issued instructions for the vehicle stop and frisk. The disposition for the vehicle search is pending.
- PO Howard has been a member of the service for seven years § 87(4-b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Conclusion

Identification of Subject Officers

- PO Pantaleo acknowledged that he stopped and searched § 87(2)(b) vehicle based on his observations. Allegations A and B are therefore pleaded to PO Pantaleo.
- § 87(2)(b) claimed that the officer who approached the passenger side of his vehicle entered his vehicle and searched his seats. PO Pantaleo stated that PO Dimassa walked to the passenger side of § 87(2)(b) vehicle while PO Pantaleo interacted with § 87(2)(b). Allegations C is pleaded to PO Dimassa.

Investigative Findings and Recommendations

Allegation A – Abuse of Authority: PO Daniel Pantaleo stopped the car in which § 87(2)(b) was an occupant.

It is undisputed that PO Pantaleo stopped § 87(2)(b) in his vehicle. However, PO Pantaleo's basis for the vehicle stop is in dispute.

§ 87(2)(b) stated that he entered his vehicle, drove § 87(2)(b), turned § 87(2)(b) and then § 87(2)(b), where he passed PO Pantaleo's vehicle. He made two additional turns, noticed PO Pantaleo's vehicle behind him and pulled over at South Avenue and Arlington Place.

PO Pantaleo stated that he observed § 87(2)(b) vehicle drive § 87(2)(b) and then turn § 87(2)(b). PO Pantaleo pulled over § 87(2)(b) car five blocks from § 87(2)(b) and § 87(2)(b) for the traffic infraction. In his stop and frisk report, PO Pantaleo noted that § 87(2)(b) was stopped for suspicion of grand larceny auto because he made furtive movements and his car fit a description. When questioned on his report, PO Pantaleo stated that § 87(2)(b) vehicle was black, a common color for stolen vehicles, and that vehicle thieves often ignore traffic laws upon making their escape. PO Howard claimed that PO Pantaleo informed him after the incident that § 87(2)(b) was stopped for driving in the wrong direction on a one-way road.

§ 87(2)(g)

§ 87(2)(g)

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Allegation B – Abuse of Authority: PO Daniel Pantaleo searched the car in which § 87(2)(b) was an occupant.

Allegation C – Abuse of Authority: PO Stephen Dimassa searched the car in which § 87(2)(b) was an occupant.

It is undisputed that PO Pantaleo searched § 87(2)(b) vehicle but the scope of that search is in dispute. It is also disputed that PO Dimassa searched § 87(2)(b) vehicle.

§ 87(2)(b) stated that PO Pantaleo used a radio to review his information prior to ordering him to exit the vehicle. § 87(2)(b) alleged that PO Pantaleo then entered the driver's side of his vehicle, searched the front and rear seats, eyeglasses holder, console, visor, trunk and a garbage bag inside the trunk. § 87(2)(b) claimed that PO Dimassa entered the passenger side of his vehicle, searched the seats and held documents that were previously in § 87(2)(b) glove compartment.

PO Pantaleo claimed that he observed § 87(2)(b) moving his hands near his waist, reaching down and bending forward in his seat, leading him to fear that § 87(2)(b) may have concealed a weapon. PO Pantaleo stated that he immediately ordered § 87(2)(b) to exit his car and searched the driver's side chair, floor mat, steering wheel, and side pocket. PO Pantaleo denied searching any additional areas in the vehicle or opening any compartments. Although PO Pantaleo observed a laundry bag on the rear seat, he denied that the bag was searched. PO Pantaleo did not observe any additional officers search the vehicle.

Sgt. Conca asserted that he did not see any officer search § 87(2)(b) car, including opening any compartments, or see a garbage bag in § 87(2)(b) vehicle. PO Howard claimed that PO Pantaleo searched § 87(2)(b) driver's seat but no additional areas and then stated that he did not recall if PO Pantaleo searched elsewhere. PO Howard stated that no officer searched § 87(2)(b) passenger side and that he did not see § 87(2)(b) trunk open, hear it open or observe a bag inside § 87(2)(b) vehicle.

§ 87(2)(g)

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

Team: 2

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date